

ROMANÆ HISTORIÆ ANTHOLOGIA.  
AN  
ENGLISH EX-  
POSITION OF  
THE ROMANE AN-  
TIQVITIES, WHEREIN  
many Romane and English  
offices are paralleld and di-  
vers obscure phrases  
*explained.*

BY  
THOMAS GODWYN *Master of Arts:*

*For the use of ABINGDON Schoole.*



AT OXFORD,  
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VENERABILI ET EGREGIO VI.

RO D<sup>o</sup>. FRANCISCO JAMES LEGVM

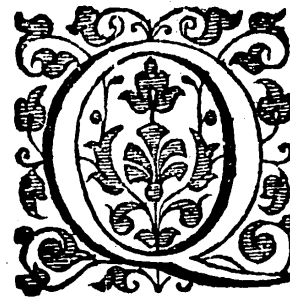
Doctori, Curiae audientiae Cantuariensis

causarum & negotiorum Auditori,

Reverendi Episcopi Bathoniensis

& Wellensis Cancellario

dignissimo.



VOTIES mihi in mentem redeunt, redeunt autem multoties crebra illa eaq; aurea tua hortamina, quibus veluti frigidâ suffulâ mihi puero in literarû studio currenti animos feceras: toties (vir ornatissime) me ære tuo ita obrutum sentio, vt non facultas modò, sed & spes omnis nomen meum expungendi de tabulis tuis præcidi videatur. Novæ scilicet mihi imperrandæ sunt tabulæ, nam de sorte acceptâ jacta est alea; & ita jacta vt nec reliquum mihi sit quo foeneralia sim soluendo; nisi numismata hæc, quæ & antiqua sunt & plumbea (id est) Antiquitates has, in quibus vereor ne me reperias hominem (vt cû Terêtio loquar) plumbeum: sed fas sit addere (ex eodê Terentio) antiquæ fidei; foeneraliorem vice acceperis. At quid tibi cum foeneratione? Vtpote qui fo-

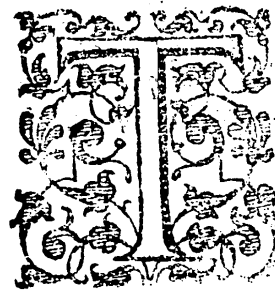
nerari beneficium non soles, sed illud pulchrè sceneratum putes quo qui accepit rectè utitur: & quid mihi cum solutione? Qui scilicet putare debeo me novum beneficium accepisse, si hoc nostrum officium boni consulas: me devinctiorem tibi factum, si dignaberis tuo nomine (tanquam insigni aliqua gemma) ornare hoc meum opusculum, quo nomine non me solum, sed iuventutem omnem (nempe antiquitatum studio- sam) plenius tibi demerèberis; mihi si quid gratiarum à candido lectore, lectori si quid utilitatis ex nostris lucubrationibus accre- cat: hoc ille, illud ego, tibi vni ac- ceptum feramus necesse est: nec enim quod res est diffitebor, nisi quòd ardentè cuperem insopitam no- stram tui recordationem notam facere, nostræ certè antiquitates adhuc sopitæ & ignotæ jacuissent, nec extra privatos parietes subreptitassent. Deus Opt. Max. dignitatem tuam quàm diutissimè servet inco- lumem. *Datum Abingdoniæ decimo calend. Aprilis. Anno. 1613.*

*Tuæ dignitatis omni obsequio  
observantissimus*

THOMAS GODWINVS.



## BENEVOLO LECTORI, S.



*T*Ria auguror potissimum, futura in hoc opusculo, quæ parùm faciant ad aliquorum hominum palatum; quæ tamen singula lectorem æquum spero æqui consulturum. Primò agere ferent quòd antiquitatis hæc suo debito. i. Ro- mano destituantur autore, & idioma- tis nostri solaciu (tanquam tot laceris pannis) vestita foras extrudantur: secundo insimulabunt ne gravem rei literaria inieciisse plagam, nempe qui hac ratione feci, ut quivis fumiendulus Grammatista poterit in lectione Ciceronis sine cortice natæ, poterit gryphos antiquitatum, qui passim historiarum occurrunt sine negotio solvere: tertio hoc illos male torquebit, quòd tota mea textura est adeò incon- cinna & insonora, adeò sterilis & humi serpens, adeò sangui- nis & sublimitatis expers. Primò velim intelligant me nò tam exuisse eas suo nitore, quàm eruisse ex tenebris, nempe trans- fundendo eas in linguam magis cognitam. Secundo sciant me, non alià mente accessisse ad hoc opus, quàm ut meo labore cui- vis sciolo & tyrunculo, vix dum literarum studiis initiato imò pueris ad huc sub ferulâ militantibus, facilis aditus ad adyta hæc patefieret: de sterilitate quam mihi impingunt, me mihi plaudo, rectiusq. nomine perspicuitatis eam dici oportere con- tendo; quid emolumenti enim ex ampullis istiusmodi verbo- rum prodigijs (quibus fulminare, nullus est elementarius qui, si velit, nequit) emergit lectori? præsertim tyrunculo, quem ista verborum tonitrua magis admiratione efficiunt, quàm instru- unt cognitione. Sed his missis, Lectorem benevolum monitum

velim, ut quoties antiquitates Romanae, quoties antiqua aliqua lex, quoties minus usitata dictiones, vel dictionum significationes, quoties paxima ex his antiquitatibus enata illum morantur in lectione autorum, Ciceronis praecipue (cui praeter ceteris meum erat consilium lucem inijcere) ut indicem meum vice Dictionary consulat: vel si magis placebit, tadium quod ex gravioribus studiis obrepere solet, discutiatur & exuat, lectitando has antiquitates, in quibus nihil occurrit ceratium quod negotium cuiusvis faceffat, nonnulla forsitan qua sopitum lectoris animum everberent & exacuant magis. Vale.



**G**ODWINE noli, pergis? inscite facis  
Vulgò Camœnas edere.

Romana spernit lingua conari sonos  
Idiomate extrusos novo.

Godwine pergas, fallor, eximie facis

Doctas Camœnas edere:

Antiqua Romæ verba conari doces

Labore iuvenes improbo.

LAV. HUMFREDVS.

In Romanæ Historiæ Anthologiam, pueris  
Ciceronis anagnostis à Tho. Godwino  
concinnatam.

**D**Iversis diversa frutex animalibus idem  
Pabula dat: Radix, sus tibi, dulce sapit;  
Dum florem delibat apis; roremq; Cicada;  
Et baccas, volucres; germina, capra legit.

Qui Ciceronis adit sinuosa volumina Lector,

Non eadem quivis, queis saturetur, avet.

Lexios hic veneres mavult, suadaq; medullam,

Schemataq; & phaleras, Lectaq; verba sequi.

Ille amentatas potius mirabitur hastas,

Argumenta, quibus causa perempta cadit.

Sunt quibus Antiqui ritus, quos prisca vetustas

Servat in Archivis, perplacere magis.

Talem tu Godwine tuo polyhistora libro

Efformare pia sedulitate studes.

Nec labor incassum cedit; tibi nempe Minerval

Gloriaq; & stabilis fama si dâulpior erit.

IO. SANFORDVS.

In eadem  
herba apis  
florem, capra  
germen, sus  
radicem cap-  
tat. Plut. lib.  
de Poetis  
Audiendis.



A short table shewing the argument of every  
Booke and Section.

Lib.	1	Of the Ro- mane citie. Sect.	1. Of the chiefe parts thereof. 2. Of the generall divisions of the Roman people.
		2	1. Of certaine generall divisions of their Gods. 2. Of the Romane Priests with some par- ticular Gods. 3. Of certaine collaterall appendices be- longing to the Romane religion ( ex. gra.) of the Romane yeare, where ob- iter of the Cal. Ides, and Nones, with certaine distinctions of the daies. Se- condly of their plaies where chiefly the parts of a comedy or tragedy are shewn. Thirdly of their maner of taking meat. Fourthly of the Romane gownes and coats. Fifthly of their rites in marria- ges and burials.
			1. Of their assemblies, called Comitia. 2. Of their civill Magistrates. 3. Of all those laws, which I have obser- ved to be touched in Tully his orations.
Lib.	3	Of the state politicall. Sect.	1. Of their maner observed in establishing their leagues. 2. Of the Romane Legion and the parts thereof 3. Of the maner of besieging a city. 4. Of the punishments towards their enemies captivated. 5. Of punishments towards the Romane souldi- ers offending. 6. Of certaine rewards after the performance of any noble exploits.
		4	Of the art mi- litary, as it was pra- ctised by the Romans Cap.



THE ROMANE ANTIQVITIES  
expounded in English.

Lib. 1. Sect. 1.

Of the chiefe parts of the Citie.

CHAP. 1.

De monte Palatino.



Omulus, and Remus being (as it is  
agreed vpon by most writers) <sup>a</sup> the  
first founders of Rome, built it at  
the first in <sup>b</sup> forme of a quadrangle  
vpon one only hill called Mons Pa-  
latinus, though Fabius left Rome, as  
it was first builde, with the fieldes  
thereof painted in the forme of a  
<sup>c</sup> bow, the river Tiber being the

string thereof. Vpon this hill was alwaies the seate of the  
Romane Empire, which from the hill tooke the denomina-  
tion of a Palace: and hence <sup>d</sup> all stately buildings, which  
we call Palaces, tooke their name, Palatia. This hill had  
his first appellation Palatinus <sup>e</sup> quasi Balatinus, a balando,  
from the bellowing of cattell, pasturing there in former  
times. But in proceffe of time fixe other hills by severall  
kings of Rome were added; whereby the city, and the Po-  
mærium, that is, the territories of the citie were enlarged:  
and Rome was called vrbs septi-collis .i. the citie vpon se-  
ven hills. Vpon this Palatine hill also stood the Asylum, or

<sup>a</sup> Plutar. vit.  
Rom Pighius  
<sup>b</sup> Rosin. an-  
tiq lib. 1. c. 2.

<sup>c</sup> Sig de iur.  
Rom. l. 1. c. 2.

<sup>d</sup> Rosin. an-  
tiq lib 1. c. 4.  
<sup>e</sup> Rosin. ib.

A

san-

2  
 § Alex. Gen. sanctuarie of refuge, which *Romulus* opened <sup>f</sup> in imitation  
 diat. l. 3, c. 20. of *Cadmus*, who at the building of *Thebes* was said to haue  
 opened a sanctuarie of refuge, whither whatsoeuer malefa-  
 ctor could escape, were he bond or free, hee was not to be  
 punished. It was much like vnto a custome of the people  
 in the citie *Croton*, who flying vnto the altars of their  
 Gods, obtained the forgiuenesse of faults not voluntarily  
 committed. Whence these two phrases are expounded a-  
 like, *Ad te tanquam ad Asylum*, and *Ad te tanquam ad arā*  
*confugimus*. i. we fly vnto thee as our only refuge.

CHAP. 2.

De monte Capitolino.

3  
 3 Rosin. an-  
 tiq. li. 1. c. 5. 1  
 1 Plutarch. in  
 Romulo. 2  
 3  
 T His hill was famous for three names: it was called  
*Capitolium*, *mons Tarpeius*, and *mons Saturni*. It was  
 named *Saturnes* hill <sup>s</sup> from the heathenish God *Sa-*  
*turne*, who vouchsafed to vndertake the protection of that  
 place. It was named the *Tarpeian* hill <sup>h</sup> from *Tarpeia* one  
 of the Vestall Nuns, daughter to the chiefe-keeper of the  
*Capitoll* (this hill being the castle of defence for the whole  
 towne.) For this *Tarpeia* betrayed the *Capitoll* into the e-  
 nimies hands, bargaining to haue the golden bracelets vp-  
 on her enemies left hands for this her treason. Now the e-  
 nimes when they were admitted in did cast not their brace-  
 lets alone but their bucklers also vpon her, through the  
 weight whereof she was pressed to death: vpon which oc-  
 casion the whole hill was afterward called the *Tarpei-*  
*an* mount; but more principally a certaine rocke  
 of that hill called *Tarpeia rupes*, from whence  
 malefactours were sundry times tumbled head-long.  
 The same hill was likewise called the *Capitoll*, be-  
 cause when the foundation of a certaine Temple, built in  
 the

the honour of *Iupiter*, was laid, a mans head full fresh, and  
 liuely, as if it had bin lately buried, i yea hot bloud issuing  
 out of it, was found there. <sup>k</sup> *Arnobius* saith, that the name  
 of this man being aliue was *Tolus*, and hence from *Caput*  
 and *Tolus* the whole hill was called *Capitolium*.

3  
 1 Dion. Hal-  
 car. lib. 4.  
 k Lipsius de  
 magnitud.  
 Rom. cap. 5.

CHAP. 3.

De colle Quirinali.

T His hill being in former time called *Agonalis*, then  
 began to be called *Quirinalis*, whē certaine *Sabines*,  
 called in Latine *Curetes*, came and inhabited there,  
 (truce being made betweene the *Romanes*, & the *Sabines*;) <sup>l</sup>  
 though some woulde therefore haue it named *Quirinalis*,  
 because there was a temple erected in the honor of *Romu-*  
*lus*, called also *Quirinus*. It was called in the time of the  
 Emperours *mons Caballus*, that is, the horse-hill, taking its  
 denomination from two marble statues of *Alexander* ta-  
 ming his horse *Bucephalus*: which statues *Constantine* the  
 Emperour brought to *Rome*, and placed thē in the middest  
 of certaine bathes, which he made vpon this hill. There do  
 appeare in this hill three risings, or hillockes, the one be-  
 ing called *Salutaris*, the other *Martialis*, & the third *La-*  
*tiaris*. All this may be collected out of <sup>l</sup> *Rosinus*.

1 Antiq. Rom.  
 lib. 1. cap. 6.

CHAP. 4.

De monte Caelio.

T His hill hath his name from a certaine <sup>m</sup> captaine of <sup>m</sup> *Alex. Gen.*  
*Hetruria*, which assisted *Romulus* against the *Sa-*  
*bines*. On this hill king *Tullus Hostilius* erected state-  
 ly edifices, which for a time served as his palace: but after-  
 ward they became the chiefe Counsell-house, whither the

dier. l. 6, c. 11.

*Senators* assembled themselves, for the determining of state-matters: & because this *Curia* did farre exceede all others, therefore authors many times vse this word *Curia* simply, without any adjunction to signifie *Curiam Hostiliam*, as if there were no other. It much resembleth our Privy-council-chamber in respect that none might sit there, but only *Senators*; whereas in the court-house, which *Pompey* built (being therefore called *Curia Pompeia*)<sup>o</sup> other city-Magistrats were admitted amongst the *Senators*: and in *curia Iulia*.i. the court-house which *Iulius* made, were examined for reigne matters, as Embassages: but in *curia Hostilia* domesticall matters only were treated of, and that only by the *Senators*. ¶ At this present time this hill is beautified with many Christian Churches, as the Churches of *S. Steven*, *S. Paul*, and *S. Iohn*, our Saviours Hospitall, &c.<sup>r</sup> It was also called *Mons Querculanus* from the abundance of oakes growing there.

<sup>n</sup> Alex. Gen. dier. l. 1. c. 16.

<sup>o</sup> Rosin. an. tiq. lib. 7. c. 6.  
<sup>p</sup> Rosin. Ibid.

<sup>q</sup> Munster in sua Cosmog. lib. 2. cap. 9.  
<sup>r</sup> Alex. Gen. dier. l. 6. c. 11.

CHAP. 5.

De monte Esquilino.

<sup>f</sup> Rosin. Ant. tiq. l. 1. cap. 8. **T**His hill was so named *quasi ex exubius*.i. from the night watching which *Romulus* did vnder-take vpon that, somewhat distrusting the fidelity of the *Sabines* in the beginning of their league. In this hill there were three hillockes named *Cispius*, *Oppius*, and *Seprimus*.

CHAP. 6.

De monte Aventino.

<sup>s</sup> Alex. Gen. dier. li. 6. c. 11. **T**HE Aventine mount tooke his name from *Aventinus* a certaine king of *Albanum*, which was there buried. Vpon this hill stode *Hercules* his altar, and cer-

certaine temples consecrated to *Iuno*, *Diana*, *Minerva*, *Lucina*, and *Murcia*.i. *Venus*: whence the hill hath sometime beene called *Dianaer hill*, & *Mons Marcius*.<sup>u</sup> Here were those *Scala Gemonia*, whither condemned persons were dragged, and so cast headlong into the river *Tiber* downe a paire of staires. Vpon this mount *Remus* would haue built *Rome*, & therefore it was called *Remonius mons*. But since it hath beene called *mons Rignarius*, as it appeareth by *Plut.* in the same place. It had moreover the name of the holy mount, being called in Latine *Mons sacer*.<sup>x</sup>

<sup>u</sup> Alex. Gen. dier lib 3. c. 5.

<sup>x</sup> Plutarch. in Romulo.

CHAP. 7.

De monte Viminali.

**B**Ecause of the abundance of wicker twigs, which did grow vpon this hill, it was called *mons Viminalis*, *vimen* signifying a twigge, or ozier. I am not ignorant that some would haue this hil to be named *Viminalis* from *Iupiter Vimineus*, whereas *Iupiter* himselfe was named *Vimineus* from this hill, because he had here many altars erected in the honour of him. Both this hill, and *Iupiter* were called *Faguales* from *sylva fagea*.i. a cops of beech-trees, which did grow therevpon. *vid. Rosin. Antiq. lib. 1. cap. 9.*

CHAP. 8.

De tribus collibus adiectis.

**T**Hree other hills there were, which in proceffe of time were added vnto the city, which partly because they were not included within the *Pomærium* so soone as the other, but chiefly because they were not of such note, there, fore *Rome* retained the name *Septi-collis*.i. the city vpon 7. hills. The first of those hills was called *Collis hortulorum*.i. the hill of gardens, so tearmed because of the many gardes

<sup>y</sup> Rosin. Ant. lib. 1. cap. 11.

Barthol. La-  
tomus in ver-  
rin. 7<sup>m</sup> Cic.  
neere adjoining. Here was the Circue, or the shew-place  
of the strūpet *Flora*, which made the people of *Rome* heire  
to those goods which shee had gotten by prostituting her  
body to young gentlemen, leaving also a certaine summe  
of mony to procure a celebration of her birth-day: which  
because of her infamie the people shaming to doe, they fei-  
ned her to be the goddesse of flowers, and that shee must  
first be appeased by sports, and plaies performed in the ho-  
nour of her, before the trees and fruits of the earth would  
prosper. The second was called *Ianiculum* from *Ianus* that  
two-faced God: who, as writers testifie, was there buried.  
It did lie beyond the river *Tiber*, and now hath changed its  
name, being called from the yellow sands *mons aureus*, and  
through negligence of the Printer, *Montorius*. i. the goldē  
mountaine. The third was famous for the many divinati-  
ons, and prophecies vttered vpon it, and thence was it na-  
med *Vaticanum* from *Vaticinium*, a foretelling. It is at this  
time famous for a library in it, called *Bibliotheca Vaticana*.

Munster in  
sua cosmog.  
lib. 2. cap. 8.

## CHAP. 9.

## De Foro Romano.

**F**orum hath diuerse acceptions: sometimes it is taken  
for a place of negociation, or marchandising, which  
we call a market-place; and being taken in this sense  
it hath commonly some adiectiue ioined with it, as *Forum*  
*boarium*, the beast-market, *forum piscarium*, the fish-mar-  
ket, *Olitorium forum*, the hearb-market. Other times it is  
taken for any place, where soever the chiefe governour of a  
province doth cōvocate his people together, there to giue  
iudgement according to the course in law: whence a man  
is said *Forum agere*,<sup>b</sup> when he keepeth the Assises, and *Fo-  
rum indicere*, when he appointeth the place, where the As-  
sises shalbe kept. Thirdly it is taken for a place, where con-  
tro-

<sup>b</sup>Hubertus in  
Cic. lib. 3. ep.  
fam. 6.

troverties in law are iudicially determined, and orations  
are had vnto the people. And of this sort there were six  
distinct *Forums*: One called *Forum Iulium*, because it was  
built by *Iulius Casar*. A second was added by *Octavius Au-  
gustus*, called therefore *Augusti Forum*. The third *Forum*,  
was founded by *Domitian* the Emperour: but by reason  
of his suddaine death *Nerva* had the finishing thereof.  
It had the name of *Forum Transitorium*, the transi-  
torie *Forum*, because there was *transitus*. i. a way or  
passage through it into three severall market places. A  
fourth was added by the Emperour *Traianus*, wherein was  
erected a stately column or pillar 140 cubites high, ha-  
ving all the noble exploits performed by *Traianus* engra-  
ven in it. Another was called *Salustij Forum*, because *Salust*  
bought it with diuerse gardens adioyning, which since  
haue beene called *horti Salustini*. The last *Forum*, which in-  
deed was first built, and in all respects excelled the rest, was  
called *Forum Romanum*, and *Forum vetus*, or by way of ex-  
cellēcy the *Forum*, as if there were no other *Forum*. Where  
we must vnderstand, that as often as *Forum* is vsed in this  
latter sense, namely for a pleading place, it is so vsed figu-  
ratiuely, by the figure Synecdoche: for in truth the plea-  
ding place, wherein Orations were had, was but one part  
of the *Forum Romanum*, namely that Chappell, or great  
building, which they called *Rostra*.<sup>d</sup> Round about this *For-  
um Romanum* were built certaine trades-mens shoppes,  
which they tearmed *Taberna*; and also other stately buil-  
dings called *Basilica Pauli*. Here was the *Comitium*, or hall  
of iustice; the *Rostra*, i. the Orators pulpit; *Saturnes* fan-  
ctuary, or the common treasure house; and *Castors* temple:  
of all which in their order.

<sup>c</sup>Rosin an-  
tiq. lib. 9. c. 7.

1  
2  
3

4

5

6

<sup>d</sup>Henr. Salm  
in Pancirolli  
lib. rerum de-  
perdit. cap. de  
Basil. & taber-

## CHAP. 10.

## De Basilicis.

Ba-

**B**asilica were vpper buildings of great state and much cost, being supported with *Pila*. i. flat-sided pillars; & hauing vnderneath them walkes, much resembling our cloisters, saving that the *Intercolumnia*, or space betweene the pillars lay open vnto the very ground. That they were vpper buildings may be collected by the custom of many men, which were wont to walke vnder these Basilicall buildings, and therefore were called *Subbasilicani* by *Plantus*. The use of these were principally for the Iudges to sit in iudgement: but in their absence it was lawfull for marchants to deale in their busineses. Those of chiefe note were three, thus named, *Pauli*, *Porcia*, and *Iulia*.

<sup>e</sup> Sigon. de iudiciis lib. 1 cap. 28.

## CHAP. II.

## De Comitio.

<sup>f</sup> Sig. de iud. lib. 1. cap. 7.

**C**omitium<sup>f</sup> was a part of the *Forum Romanum*, being a great large hall of iustice, which for a long time was open at the top having no covering, and for that reason the assemblies were often dissolved in rainy, or vnseasonable weather. In it stood the *Tribunal*, being a place erected vp on high in forme of our pulpits, but many degrees larger, & in the midst thereof the *Sella Curulis*. i. the Ivory chaire, frō whence the chiefe magistrate administred iustice; other inferior magistrats sitting on bēches on each side, which were called *Subsellia*, because they were lower thē the *Tribunal*. Those which sate vpon these benches had power *cognoscere*, but not *pronuntiare*; much like to our Iustices at the Assises, which may examine or informe against a malefactor, but not condemne him. Where wee may obserue the difference betweene *Comitium*, signifying such an edifice, or building, and *Comitia*, signifying the Roman assemblies: both being so called à *coeundo*. & In this hal did stand an Altar, vpon which the Iudges laying their hands, did

<sup>g</sup> Sig. de iud lib. 1. cap. 28.

did take their oath to administer iustice without partiality. It was called *puteal Libonis*.

## CHAP. 12.

## De Rostris.

**N**EXT to the *Comitium* stood the *Rostra*, a goodly faire edifice in manner of the bodie of a Cathedrall Church. In it stood an orators pulpit deckt & beautified with the stemmes of many ships, which they got frō the people of *Antium* in a memorable battle vpon sea: and hence from those ship-beakes called in Latine *Rostra*, <sup>h</sup> Hubert. in Cic. lib. 3. ep. fam. 1. hath this place taken his name. It may bee englished the great Oratory, or place of common plea.

## CHAP. 13.

## De templo Castoris.

**A**Nother part of the *Forum* was a sanctuarie built in the honour of *Castor* and *Pollux*: the reason thereof was because they appeared vnto the Romans in the Latine warre in the likenesse of two Angels sent from heaven to lead the Roman army, and to assist the Romans against the Latines: who being vanquished, they suddenly were departed out of the field, none knowing how, & even in the same moment they appeared vpon their sweating horses vnto the Roman citizens in the *Forum*, who taking them for souldiers demanded what newes they brought home from the campe: they replied that the Romans were conquerours: which newes being delivered, they suddenly vanished, and were seene no more. Vpon this occasion did *A. Posthumus* being at that time *Dictator*, build a Temple in that place of the *Forum*, where they were seen in honour of them both. Although in the after ages it had the name only of *Castors* Temple; Whence arose the ieast of *M.*

<sup>i</sup> Sueton. in Iulio Cesare

*Bibulus* against his fellow Consul *Julius Caesar*, saying that it fared with him, as it did with *Pollux*; i. as this Temple which was erected in the honour of both the brethren, carried the name only of *Castors* Temple; so the great expenses in exhibiting shewes in the time of their Consulshippe though they went deeper on *Bibulus* his side, yet *Caesar* carried away all the thanks, and credit. Insomuch that the people being wont to subscribe the names of both Consuls at the end of their deeds, and Charters, for a remembrance of the yeare; that yeare they wrote, Such a thing done not *Bibulus*, and *Caesar*, but *Julius* and *Caesar* being Consuls.

CHAP. 14.  
*De aede Saturni.*

<sup>k</sup> Plutarch.  
in Publicola.

**S** *Aturnes* sanctuarie<sup>k</sup> was the common treasure house, wherein the subsidie mony which the commons payd vnto the treasurers called *Quaestores*, was to bee laid vp: whereof divers men coniecture diuersly. *Alexander Neop.*<sup>l</sup> saith, that *Saturne* found out the vse of brassen mony: and therefore this Temple might be thought the fittest place for the treasure. *Plutarch* thinketh rather that the making of the treasure in that place did allude to the integrity of the time, wherein *Saturne* reigned, being the worlds golden age.<sup>m</sup> But the most receaued opinion is the strength of the place, whereby it was the safer from theues. This temple by reason of the vse it was put vnto, was called *ararium* from *as*, i. brasse: which name now is common to all treasure houses; for that the first mony vsed by the Romans was of that metall, vntill the yeare of Rome 485 (as *Pliny* witnesseth lib. 3. cap. 33.)<sup>n</sup> Some are of opinion, that before the vse of brasse they made money of leather: whence *Numa Pompilius* is said to haue given leather mony in a dole vnto the people. Touching their order obserued

<sup>l</sup> Alex. Gen.  
dier. l. 4. c. 15.

<sup>m</sup> Alex. Gen.  
dier. lib. 2. c. 2.

<sup>n</sup> Alex. Gen.  
dier. l. 4. c. 15.

ved in the treasury, wee must vnderstand that their care in providing against suddaine dangers was such, that they laid aside the twentieth part of their receipts, which they called *aurum vicesimarium*, *Incensimarium*, and *Cimiliarchium*, into an inner chamber, or more sacred roome, named in Latine *ararium sanctius*.<sup>p</sup> Wee may read also of a third treasury called *ararium militare*, wherein *Augustus* had appointed that the twentieth part of certaine legacies should be laid vp to defray charges in extraordinary wars: where it lay so priuiledged, that it was a capitall crime to vse any of it, but in extreame, and desperate necessitie. Notwithstanding howsoever it was vsed as a treasure house, yet diuers authors testifie that the acts of their senate, the books of Records, together with such bookes, as were for their immeasurable bignes called *libri Elephantini*, wherein all the names of their Citizens were registred, and also their militarie ensignes, were contained there.<sup>r</sup> And from those statute books called *tabula publica*, this treasury was also called *Tabularium*, because they were laid vp there.

<sup>o</sup> Alex. Gen.  
dier. lib. 2. c. 2.  
<sup>p</sup> Servius l. 2.  
Virg. Georg.

<sup>q</sup> Alex. Gen.  
dier. lib. 2. c. 2.

<sup>r</sup> Plutarch in  
suis problem.  
mat. vid.  
Franc. Syluiū  
in Catilinari-  
am 4.

CHAP. 15.  
*De campo scelerato.*

**C** *Ampus sceleratus*, the field of executiō,<sup>s</sup> lying within the city, ioined to the gate *Collina*. It was the place, where the Vestall Nuns, if they were deflowered, suffered punishment after this manner. There<sup>t</sup> was made a Vault vnder the earth with an hole left opene above, whereby one might go downe; and within it there was a little couch with a burning lampe, and a few victuals: whether the defiled Votary was to be brought through the market place in a litter so closed vp with thicke leather, that her mournings might not be heard to the moving of pity. Shee being thus brought to the place of execution, was let downe by a ladder into the hollow caue, and the

<sup>s</sup> Munster. in  
sua Cosmog.

<sup>t</sup> Plutarch. in  
Numa.

hole presently stopped. And the reason why they suffered such a kinde of death, was because they thought it not fit; that shée should be burnt with fire, which kept not the sacred fire with greater sanctity. And it was thought unlawful to punish them by laying violent hands on them, because they had in former time served in so holy a function.

## CHAP. 16.

*De campo Martio.*

<sup>a</sup> Rosin. an.  
<sup>11</sup> q. lib. 6. c. 11

**T**He *campus Martius*, otherwise called *Tiberinus*, because it was neere the river *Tiber* was given vnto the *Romane* people by *Caia Tarratia*, a Vestall Virgin: but *Tarquinus Superbus* the last king of *Rome* did take it from the people, converting it to his own private vse in so much that he sowed corne there, which, when he was deposed, the *Romanes* did cast into the river *Tiber*, iudging it unfit that any man should reape any commodity from so holy a ground. In processe of time the sheaves of corn being stopped in a shallow foard of the river, became firme ground, and was called the holy Iland, or *Aesculapius his Iland*. And presently after the expulsion of *Tarquinus*, this *Campus Martius* was restored vnto its former vse. Beside the naturall pleasantnesse of the place it selfe, it was beautified with many ornaments brought out of the Capitol (the Capitol being too full) as likewise with divers images of well deserving men. Hither did the younger sort of *Romanes* come to exercise all matters of chivaldry, namely the horse race, the foot-race, wrestling, fencing, vaulting, casting the bowle, the sledge, the dart, vsing the sling, the bow, with such like: & vpon this occasion it was dedicated to *Mars*, and called by *Strabo*, the *Romanes* great schoole of defence. In this field were men of best note burned, when they died. Here were the kings, & other magistrates at first created. In this <sup>a</sup> field of *Mars* also was a place at first railed, like a sheep-

<sup>a</sup> Serv. in Bu.  
col. eclog. 10.

sheepe-pen; called therefore *Ovilis*, or *septa*; but afterwards it was mounted with marble-stone, beautified with stately walkes, and galleries, and also with a tribunall, or seate of iustice, within which precinct the people often times assembled to giue their suffrages toward the election of magistrates. The meanes of ascending vp vnto these *Ovilis* was not by staires, but by many bridges made for that time; every parish in the assembly of parishes, and every tribe, or ward in the assembly of the tribes, and every hundred in the assembly of cēturies having his bridge: whence this proverbe was occasioned, *de ponte deiciendus*. i. he is to be barred from giving his voice. These bridges were not made over any river, but over the dry land: whence men were said to be cast, *Non ut periclitarentur de vita, sed ne suffragarentur in Comitijs*. <sup>7</sup> Ioan. Saxo-  
onius in orat.  
pro S. Roscio

## CHAP. 17.

*De Circo Maximo.*

**A**Mongst other places where the *Romanes* exhibited their plaies vnto the people, the most remarkable was the great Circque, or show-place, called in Latine *Circus Maximus*. It was a large peece of ground, lying neere that part of the *Aventine* mount, where *Dianaes* temple stood. It was built by *Tarquinus Priscus* with diverse galleries round about it, from whence the *Senators*, & gentlemen of the city did behold the running with great horses at lists, the fire-workes, tumbling, the baiting, and chasing of wilde beasts, &c. In former time all did stand on the ground, being sheltered frō the raine by the helpe of boards vpheld with forkes in manner of house-pentices: and this custome continued vntill the aforesaid *Tarquinus* erected those galleries, called *Fori*, making thirty distinctions of them, allotting every ward or company their severall quarters

ters, all the seats being able to containe one hundred fiftie thousand parties.<sup>2</sup> Vnder these places were cels, or vaults, where women did prostitute their bodies, and would buy stolne goods, and for this reason *Horace* calleth it *Fallacem circum*. i. the deceitfull shew-place. There was at the one end of the circque certaine barriers. i. places barred, or railed in, at which place the horses began the race; and at the other end was the marke, whether the horses ran: it was called in Latin *Meta*, and the barriers *carceres*, à *coercendo*. Whence wee say à *carceribus ad metam*. i. from the beginning to the ending.

## CHAP. 18.

## De Theatro.

<sup>a</sup> Ioach. Camerarius in orat. pro L. Flacco.  
<sup>b</sup> Servius lib. 2. Virg. Georg.

THE Theatre <sup>a</sup> hath his name from the Greeke verbe *θεαω*. i. to behold: because the people flocked thither to behold plaies, and shewes exhibited to them. The custom<sup>b</sup> first sprang from sheep-herds, who leading a contemplatiue life, were wont to compose dialogues in mee- tre, and at their leasure to recite them vnder the trees pressed downe in forme of an arbour; whence this theatrall tearme *σκυα* hath beene derived from *σκια*, a shadow. But afterward learned Poets composed Comedies, and Tragedies, which were publicly acted in the city vpon a stage: and although at the first it was counted infamous to frequent them, yet afterward the Senators themselves, yea the Emperour, and all the chiefe of Rome assembled thither.<sup>c</sup> Neither for a long continuance were there any seats built, but commons and nobles promiscuously one with another all stood on the ground; insomuch that those which stood behind, raised vp places with turfs of earth, which gaue the people occasion to call the place between those turfs, and the scaffold *Cavea*, i. a caue, or den: yea sometimes the people that stood there were so called from the

<sup>c</sup> Alex. Gen. dier. l. 5. c. 16.

the place. Though the Theatre be now taken only for the stage, yet then by it was vnderstood all the whole roome, where these plaies were acted: and it had diuerse parts, some proper to the actors, some to the spectators. To the actors belonged first the *proscenium*. i. the house, whence the players came, where they apparelled themselves, though sometimes it is taken for the scaffold, or stage it selfe: secondly the *pulpitum*, that is, the stage, or scaffold vpon which they acted: and thirdly the *scena*, that is, the<sup>d</sup> partition, which was commonly made of wood not of hangings. Now that they might change their scene according to their pleasure, they made it either <sup>e</sup> *Versatilem*. i. so that with engines it might vpon the sudden be turned round, and so bring the pictures of the other side into outward appearance: or otherwise *ductilem*. i. so that by the drawing aside of some wainscot shuttles (which before did hide the inwarde painting) a newe partition might seeme to be put vp. And as I thinke, because those sheepe-herds did act no more at a time, then one of our scenes, hence haue we distinguished our playes into so many parts which wee call scenes. The places which were proper to the spectators were distinguished according to their degree and place: for the remotest benches were for the commons, & called *popularia*; the next for the knights, & gentlemen of Rome, called therefore *Equestria*; the others, wherein the Senators did sit, were built betweene the *Equestria*, and the stage in manner of a triangle, or a wedge sharpe towards the stage and broad behinde, by reason whereof those seates were sometimes called *Cunei*, but more commonly *Orchestra*.<sup>f</sup> this may be collected out of *Lipsius*. There was also another scaffold built quite round, made as it were of two theatres ioined together; It was called *Amphi-theatrum*, & differed from the theatre only as the full moone doth from the halfe, or a compleate run- dle from a semi-circle. Vpon this kinde of scaffold, did the masters

<sup>d</sup> Serv. lib. 3.  
<sup>e</sup> Virg. Georg.  
<sup>f</sup> Servius l.

<sup>f</sup> De Amphi- theat. cap. 14.  
<sup>g</sup> Pancirollus lib rerum de- perditarum cap. de am- phitheat.



<sup>h</sup> Lippius de  
Amphicheat.  
cap. 3.

masters of fée play their prizes. The *area*, or plot of ground, wherein these scaffolds did stand, was called *cavea*, for the reason aboue-mentioned: & it was also called *arena*, which signifieth sand, or gravell, <sup>h</sup> because the ground was covered with sand, that the fencers, if any of them by chance fell of the stage, might not hurt themselves. And this gaue occasion of our Latine phraze, *In arenam descendere*. i. to goe into the field.

## CHAP. 19.

## De Pistrino.

**T** Here remaineth another place yet to bee spoken of, whereof there is frequent mentiō in Comical authors. It much resembleth our bridewell, or place of correction, being called in Latin *pistrinum à pinfendo*, from pounding. For before the use of mills was knowne the *Romanes* did pound their corne in a greate mortar, calling the place where they pounded it, *pistrinū*. Wherevpon our hand-mil hath retained the same name to this day. & because of the great paines that men did suffer in pounding, hence grew a custome among them, that when a servant had offended, his master would menace him in this manner, *In pistrinum te dedam*, I will cast thee into Bride-well.

## CHAP. 20.

**M**oreover for the better vnderstanding of classcall autors, it will not bee impertinent to point at the generall names, by which their religious places were called: and to declare the proper acception of each name. The names being these, *Templum*, *Fanum*, *Delubrum*, *Aedes sacra*, *Pulvinar*, *Sacrarium*, *Lucus*, *Scrobiculum*, *Ara*, *Altare*, *Focus*.

## De Templo.

This word *Templum* doth sometime signifie those  
8 spa.

spaces, and regions in the ayre, and earth, which the Augures did quarter out with their crooked staffe at their sooth-saying. It doth seldome signifie the heaven, & most commonly it doth signifie a Church, or Temple: in which sense as often as it is vsed, it is said *à templando*, from beholding; because when we bee in the Church, by lifting vp our hearts by a divine contemplation, wee doe, as it were behold the great maiestie of God.

## De Fano.

It is also called *Fanum à fando*, from speaking: not from the speaking of the Priest; but because the people do there speake vnto God, and God againe to the people.

## De Delubro.

Thirdly, a Church was called *delubrum Synechdochicū* because it was the principall part of the Church, namely the place where their Idoll God stood; and it was called *delubrum* from *Deus*:<sup>1</sup> as we call the place, where the candle is put, *candelabrum* from *candela*. As concerning the outward forme of the Churches, some were vncovered, because they counted it an hainous matter to see those Gods confined vnder a roose, whose doing good consisted in being abroad; Other some covered, some round, some otherwise: but within they much resembled our great Churches. They had their *pronaon*, or Church-porch, whereabouts they were wont to haue the image of the beast *Sphinx*, which was so famous for his obscure riddles: so that by this image was signified, that the oracles of the Gods which were treated of within the Church were dark and mystical. They had certaine walkes on each side of the body of the Church, which they called *porticus*: & in these places it was lawfull for them to marchandise, make bargaines, or conferre of any worldly businesse; as likewise in the *basilica*, or bodie it selfe. But their quire called *Chorus*, was counted a more holy place, set apart onely for divine service. The manner of hallowing it, was as followeth.

C

When

<sup>1</sup> Rosin an-  
tiq lib. 2. c. 2.

<sup>k</sup> Fr. Sylvius  
in orat. pro  
Murzo.

<sup>1</sup> Rosin an-  
tiq. li. 2. ca. 2.

m Rosin. ib.

When the place where the Temple should be built, had been appointed by the Augurs (which appointing, or determining the place they called *Effari templa*, and *sistere Fana*) then did the party, which formerly in time of neede vpon condition of helpe from the Gods had vowed a Temple, call together the *Aruspices*, which should direct him in what forme the temple should be built: which being knowne certaine ribbands, and fillets were drawne about the *area*, or plat of ground with flowers, & garlands strowed vnderneath, as it was probable to distinguish the limits of this ground now to bee hallowed. Then certaine souldiers marched in with boughes in their hands, & after followed Vestall Nunnes leading young boyes, & maides in their hands, who sprinkled the place with holy water. After this followed the Prætor, some Pôtific going before, who after the *area* had beene purged by leading round about it a sow, a ramme, and a bull, sacrificed them, & their entrals being laid vpon a turfe, the Prætor offered vp praises vnto the Gods, that they would blesse those holy places, which good mē intended to dedicate vnto them. This being done the Prætor touched certaine ropes, wherewith a great stone being the first of the foundation was tyed: together with that other chiefe Magistrates, Priests, and all sorts of people did helpe to pluck that stone, & let it down into its place, casting in wedges of gold, and silver, which had never beene purified, or tryed in the fire. These ceremonies being ended, the *Aruspex* pronounced with a loud voice, saying, *Nè temeretur opus, saxo, auroue in aliud destinato* .i. let not this worke bee vnhalloved by converting this stone, or gold into any other vse.

#### De *Æde sacrâ*.

Fourthly, a Church was called *Ædes sacra*, an holy house, because of the sacrifices, prayers, and other holy exercises performed therein. Although (as *Gellius* hath long since observed) every holy house was not a Church. For the proper

proper note of distinction betweene a Church, and a religious house was this: that a Church beside that it was dedicated vnto some God, it was also hallowed by the Augures, without which hallowing the edifice was not called a Church, but a religious house: of which sort was the Vestall Nunnerie, and the common treasurie, called *Ædes Saturni*. Wee may adde herevnto this word *Pulvinar*, which doth often signifie a church: the reason being taken from a custome amongst the Painims, who were wont in their churches to make certaine beds in the honour of their Gods, and those beds they called *Pulvinaria* from *pulvis*, because they were filled with dust or chaffe.

#### De *Sacrario*.

Sometimes *° Sacrariū* signifieth a temple, though properly it signifieth a Sextry or Vestry, nempe *p Sacrorum repositoryum*.

#### De *Lucis*.

Neere vnto diuerse temples stood certaine groues dedicated to some of the Gods: they were called in Latine *Luci à non lucendo*, as diuerse say, by the figure *antiphrasis*. But others are of a contrary opinion, giving it that name, because of the exceeding light it had in the night time by reason of the sacrifices there burnt.

#### De *Scrobiculo, Arâ, & Altari*.

The places vpon which they sacrificed either in their religious houses, or their groues, were of three sorts, which we in english tearme altars; but the Romans distinguished them by three severall names, *Scrobiculus, Arâ*, and *Altare*.

#### De *Scrobiculo*.

*° Scrobiculus* was a furrow, or pit containing an altar in it, into which they poured downe the bloud of the beast slaine, together with milke, hony, and wine, when they sacrificed vnto an infernall God.

<sup>n</sup> Barthol. Latomus in Philippic. 4<sup>th</sup>.

<sup>o</sup> Cic. pro Milone.  
<sup>p</sup> Franc. Sylvius in orat. pro L. Muren

## De Ara.

The second kind of altar was called *Ara*, either *ab ar-  
dendo*, because their sacrifices were burned vpon it: or from  
their imprecations vsed at that time, which in Greeke they  
called *ἀπαῖς*. It was made foure-square, not very high from  
the ground, or as some say, close to the ground: and vpon  
this they sacrificed vnto the terrestriall Gods, laying a  
turffe of grasse on the altar: and this gaue *Virgil* occasion

to call them *Aras gramineas*. i. grasse altars.

Virg. Æn.  
12.

## De Altari.

The third sort was called *Altare*, either because it was  
exalted, and lifted vp somewhat high from the ground; or  
because he that sacrificed (by reason the altar was so high)

was constrained to lift vp his hands *in altum*, on high: and  
vpon this they sacrificed vnto their celestiaall Gods only.

## De Foco.

*Focus* is a generall name, signifying any of these altars,  
so called *à fovendo*: because as *Servius* hath observed, that  
is properly *focus*, *quicquid fovet ignem*, *sive ara sit*, *sive quic-*  
*quid aliud, in quo ignis fovetur.*

Lib. 1.



## Lib. 1. Sect. 2.

## The generall divisions of the Romane people.

## CHAP. I.

## De populo Romano, &amp; eius primâ divisione.



Hus having premised a short treatise concerning the first situatiō of *Rome*, and the most remarkeable parts thereof, I purpose to proceed to the Inhabitants, which antiquity hath stiled Citizēs of *Rome*. And *Erasmus* rather describing a *Romane*, then defining him, saith, A *Romane* was graue in his conversation, severe in his iudgement, constant in his purpose: Whence *Cicero* in his Epistles oftē vseth this phrase, *Morre Romano*, for *ex animo*. i. vnfaignedly. <sup>a</sup> *Sigonius* rendring the definition of a *Romane* citizen, averreth that no man is *lege Optimâ*. i. in full and compleate maner a citizen of *Rome*, but he which hath his habitation there, which is incorporated into a tribe, and which is made capeable of city prefermētts. By the first particle those which they terme *municipes*; by the second those which they call *Inquilini*; & by the third those which they call *Libertini* are in a manner disfranchised. But wheras *Sigonius* saith that they must haue their habitation at *Rome*, he would not be so vnderstood, as if a *Romane* citizen might not remoue his habita-

<sup>a</sup> Sig. de iur.  
Rom. l. 1. c. 1.

tion to any other country : For saith he a *Romane* citizen may be as long absent from *Rome*, and the fields belonging to *Rome*, as he please, so that hee suffer himselfe to be sessed and taxed in common with others toward the subsidy payments, & denieth to be incorporate into another city. For *T. Pomponius* was a true citizen of *Rome*, though he dwelt at *Athens*. The *Romane* citizens being by these priviledges as by a more proper & peculiar character distinguished from other people; and being planted in the city according to the appointment of *Romulus* their king, it seemed good vnto him to divide them into<sup>b</sup> tribes, not taking the note of distinction onely from the divers places they then inhabited, as we read that *Servius* the sixth king of *Rome* did, making therefore fowre tribes *tribus*, locall, namely *Suburanam*, *Palatinam*, *Collinam*, and *Esquilinam* (which number of locall tribes in proceſſe of time encreased vnto the number of 35:) but dividing them according to the severall natiōs, which at the first were *donati civitate*. i. made free denizens of *Rome*: (and they being in number thre. 1. the *Sabines*, which were named *Tatienſes*, from their king *Tatius*: 2. the *Albanes*, called *Rhamnenses* from *Romulus*. 3. other nations promiscuously flocking out of other countries to the *Romane Asylum* placed in a grove called in latin *Lucus*, which gaue *Romulus* occasion to name the *Luceres*) he made in all three tribes *gens* or nationall. After that *Romulus* had thus devided the whole body of the *Romanes* into three tribes, he then subdivided each tribe into tenne lesser numbers, which he called *curia*, or parishes: & then followed fivē other divisions in respect of their different degrees, and callings: of which in their severall order.

<sup>b</sup> Sigon. de  
jure Rom. lib.  
1. cap. 3.

#### CHAP. 2.

*De primâ divisione Romanorum in Senatores, five  
Patres, Patricios, five Patronos, & Ple-  
beios, five Clientes.*

The

**T**He first division of the *Romans* in respect of their degree, and place was this. The elder, wealthier, & gravest sort of *Romanes*, were called sometimes *Patricij*, either because of their age, and gravity; or because they had many childrē (for great priviledges were granted vnto fathers of three children.) & sometimes *Patroni*, because they were as patrons, and fathers in helping and assisting the causes of the common people seeking to them. The younger, poorer, and simpler sort were called, as they had relation to the *Patricij*, *Plebeij*. i. the commons; as they had relation to their *Patrons*, they were named *Clientes*. i. *Clientes*. Betweene whom<sup>c</sup> there was such a mutuall, and reciprocal entercourse of loue, and duty, that as their *Patrons* were ready to protect their clients, so the clients were bound with all faithfulnessse to cleave vnto their *Patrons*: and that not only to credit them with their attendance in publike assemblies, but to disburse out of their owne purses towards the bestowing of their daughters, the paying of publike mulcts, the giving of largesses in suing for offices, &c. Neither was it lawfull for either of the to enforce, to depose, to giue their voices, or to side with adversaries one against another without the guilt of treason: for which crime of treason they were *dij inferis devoti*. i. cursed to hell, and the law gaue liberty for any man to kil them. Out of the *Patricij* did *Romulus* elect 100. counsellors to assist him in determining matters concerning the cōmō-weale: to these did *Romulus* after adde another 100. and *Tarquinius Priscus*, as diverse authors testifie, made them a cōpleat 300. which they called *Patres*, or *Senatores*, & their sonnes *Patricij*. But in proceſſe of time the commons also were eligible into a *Senators* place. Some say that *Tarquinius Priscus* added the second hundred to the *Senate* out of the commons, <sup>d</sup> who were called *Senatores minorū gentium*. i. *Senators* of the lower house. *Brutus* added the last 100. & made them 300: at what time they began to be called *Patres*

<sup>c</sup> Lazijs de  
Repub. Rom.  
lib. 12. cap. 3.

<sup>d</sup> Martin. Phil  
leticus in  
Cic. lib 1 Ep.  
fam. 1.

tres

*tres conscripti.* And this accordeth with *Ioannes Rosa* in his Epitome of the *Romane* history, in his chapter *de Regibus Romanis*: where he saith, that *Tarquinius Priscus* did double the number of the *Senators*: And likewise *Alexander* Neop. saith, that *Brutus* made them a compleat 300.

## CHAP. 3.

*De secundâ divisione Romanorum in tres ordines, Senatorium, Equestrem, Popularem. seu Plebeium.*

**A**fter that through *Tarquinius Superbus* his tyranny, the very name of a king became odious to the *Romanes*, not only the present king was exiled, but the authority of a king ever afterward detested, and perpetually abrogated: so that the office, which was before monarchicall then was divided betweene two, called *Cōsuls*; neither were they admitted for any longer space then one yeere. At which time of change, the *Romanes* were divided into three orders, or ranges, 1. into *Senators*, of whom before. 2. into *Gentlemen*, called of the *Romanes* *ordo Equestris*: by which we doe not vnderstand those 300. *Celeres*. i. Pensioners, cailed sometimes *Equites*, for that was a place of service, this a title and token of gentility. Who although they were inferiour to the chiefe Senate, yet they were of greate esteeme among the *Romanes*: and although they might not weare the same robe as the *Senators* did, namely the *laticlavium*, or garment bestudded with flowrishings of purple silke in manner of broad naile heads; <sup>f</sup> yet they might weare the *angusti-clavium*, a garmēt differing from the former only in this, because the purple studdes, where-with it was purfled was narrower, and not so large as the *lati-clavium*. They also at the time of their election received from the *Censors* an horse, called by them *equus publicus*, because of the yeerely allowance out of the common treasury to keepe him: it was also called *equus militaris*, because of their service in warre (s they having their horses kept

<sup>f</sup> Rosin. Ant. lib. 1 cap. 17.

<sup>g</sup> Lipsius de magnitud. Rom. l. 1. dial. 5.

kept as well in peace, as warre.) They received also a gold ring, <sup>h</sup> whereby they were distinguished from the *Populace*: for it was not lawfull for any to weare a gold ring vnder the degree of a *Senator*, or a Gentleman. The estimation and value of a *Senators* estate <sup>i</sup> vntill *Augustus* his time was *octingenta sestertia*, that is, 6000<sup>l</sup>. <sup>k</sup> Of a gentlemans estate it was *quadringenta sestertia*, that is, of our English mony 3000<sup>l</sup>. 3. The third order, or degree in the *Romane* common-wealth was *Populus*, the populacy, or commons, which should exercise trading, manure the ground, looke vnto the cattell, &c. Where by the way we must vnderstand that the baser sort of the *Romanes*, which did wander vp & downe to and fro, not settling themselves to any vocation, were not contained within this division: for vnto them there was no name vouchsafed: but according to the Poet they were *sine nomine turba*; or as *Livy* saith, *ignota capita*, men of no account, and therefore of no name.

<sup>h</sup> Alexan Genial. li. 2. cap. 29.

<sup>i</sup> Suet. in August. <sup>k</sup> Plin. lib. 33. cap. 2.

## CHAP. 4.

*De tertiâ divisione in Nobiles, Novos, & Ignobiles.*

**T**his division was taken from the right or priviledge of having images; for they were accounted *Noblemen*, which had the images of their predecessors: Those which had their owne images only were called *Novi*. i. late-coyned nobles or vpstarts. *Salust* vseth this word often in the disgrace of *Tully* calling him *Novum & reptitium civem*, one that lately crept into the city. The third sort called *ignobiles* were those that had no images, neither of their predecessors, nor of themselves. Before we proceede, we must vnderstand, that it was not lawful for who would to haue his owne image, if he so desired; for none might be thus priviledged, but those alone to who the right of riding in a Curule chaire belonged; & to these the right of images was permitted, as wel for the credit of their house, as to incite others to the like atchieuements, when they would consider the diuerse ceremonies vsed vnto these images in

an honourable remembrance of those whom they did represent. Whence it followeth, that *Ius nobilitatis* is nothing else but *Ius imaginis*; inasmuch that this word *Imago* doth oftentimes signifie Nobilitie: and the right of having Images with them, was the same as the right of having arms with vs.<sup>m</sup> The superstitious conceit which the Romans had of these images was such, that vpon festivall daies & all occasions of ioy and mirth, those images should bee beautified and adorned with garlands and flowers; vpon occasions of griefe and mourning they would take from them all their ornaments, making them in a manner to partake of their mourning. Some they kept in their private closets,<sup>n</sup> others they exposed to the publike view of passengers, placing them in the gates of their houses together with the swords, targets, helmets, ship-beakes, and such other spoiles as formerly they had taken from their enemies; which it was not lawfull for any though they bought the house so much as to deface.

## CHAP. 5.

*De quarta divisione Romanorum in Optimates, & Populares.*

**T**His fourth division of the Romans hath beene occasioned through the faction & siding of the Citizens. Those (according to the description of *Tully*) were *Optimates* .i. the best citizens, who desired their actions might be liked, and approved by the better sort. Those *Populares* .i. popular, who through a desire of vaine-glory, would not so much consider, what was most right, as what should be most pleasing vnto the populacy. So that here by this word Popular wee vnderstand not the commons, as formerly we did,<sup>p</sup> but be he Senator, Gentleman, or inferior, if he doe more desire that which shall bee applauded by the *maior* part, then that which shall be approved by the better part, him the Romanes called *Popular* .i. such a one, that preferreth the popular applause before the right.

CHAP

## CHAP. 6.

*De quinta, & ultimâ divisione Romanorum, in Libertos, Libertinos, & Ingenuos: item de Manumissione.*

**T**He difference of freedoms in the citie of Rome hath given occasion of this division: For he, or she that had served as an apprentice, and afterward was manumized, was named *Libertus*, or *Liberta*. The sonne whose father, & mother were once apprentices, was called *Libertinus*: but that sonne whose father and mother were both libertines, or both free-borne, & yea whose mother onely was free, was called *Ingenuus* .i. free-borne. But after *Appius Cæcus* his Censorship, then began *Liberti*, & *Libertini* to signifie one, and the same degree of freedom: so that *Liberti*, and *Libertini* were taken for those which served for their freedom, and *Ingenui* were taken for those which were free-borne, whether their parents were *Liberti*, or *Libertini*. Here is occasion given vs to consider the maner of their freedom, and such ceremonies which belonged therevnto. The freedom of the city of Rome was three waies obtained: First by birth, both or at least one of the parents being free, and such were called *cives originarij*. Secondly by gift, or cooptation, when the freedom was bestowed vpon any stranger, or nation, and they were termed *civitate donati*: and so wee read that *Cæsar* did take in whole nations into the freedom. Lastly by *manumission*, which was thus; when as the servant was presented by his master before the Consull, or Prætor, the master laying his hand vpon the servants head, vsed this forme of words, *Hunc liberum esse volo*, and with that turning his servant round, and giving him a cuffe on the eare, hee did *emittere servum è manu*. The Prætor then laying a certaine rodde or wand called *Vindicta* vpon the servants head, replied in this manner, *Dico cum liberum esse more Quiritum*. The *Lictor* or *Servant* taking the wand did therewith strike the servant on the head, and with his hand bee

D 2

stoke

<sup>1</sup> Sig. de iur. Rom. l. 2 c. 20

<sup>m</sup> Alexan. Genial. dier. lib. 5. cap. 24.

<sup>n</sup> Barthol. Latomus in Verrin. 7.

<sup>o</sup> Cic pro Sextio.

<sup>p</sup> Geor. Met. rula in orat. pro Ligario.

<sup>q</sup> Iust. in. inst. lib. 1. tit. de Ingenuis. vid. Franc. Sylviu in Catilinari- am. 4.

<sup>r</sup> P. Ramus in orat. pro C. Rabirio.

stroke him on the face, and gaue him a push in the backe, and after this hee was registred for a free-man. Moreover the servant hauing his head shaven purpôsely at that time receaued a cap, as a token of libertie: whence *ad pileum vocare aliquem*, is, to set one at libertie, as likewise *vindictâ liberare*. Here we may also consider the two severall kinds of servants: the first were called *serui*, and they could never attaine to any freedome without the consent of their

† Dion Hali-  
carn. lib 4.

† Sigon. de  
iudiciis l. 1.  
cap. 31.

u Michael  
Toxita in o-  
rat. pro  
P. Quintio.

\* Fr. Silvius  
in epist. viro-  
rum illust. l.  
1. epist. 6.

Master: † for those that were thus *serui* were commonly captiues, either bestowed as a reward vpon this, or that souldier, or bought *sub coronâ*, or of other citizens, which had gotten them one of those two former waies. The second were called properly † *nexi & addicti*, because though they were free, yet by reason of their debt, *addicebantur*, that is, they were delivered vp vnto their creditors by the Prætor to worke out the debt, so that after the payment thereof either by mony or worke, they did recover their libertie: whence they were said u *nomina sua liberare*, whē they paid the debt: as on the contrary they were said, *nomina facere*, when they came in debt. And their creditors when they sued for the payment were said *nomina exigere*: *Nomen* in these and the like places signifying as much as *Debitum* a debt, \* because the creditors did vse to write downe their debtors names.

Lib. 2.

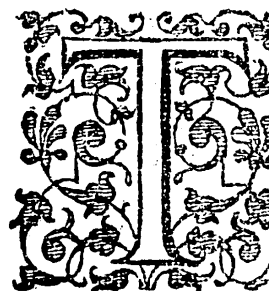


Lib. 2. Sect. 1.

The generall diuisions of the Romane Gods.

CHAP. I.

De dijs.



Hough *Satan* had much blinded the hearts of men in old time, yet was not the darknesse of their vnderstanding so great, but that they did easily perceiue, and therefore willingly acknowledge, that there was some supream governour, some first mover, as *Aristot.* saith: some first original of all goodnesse, as *Plato* teacheth. So that if any made this question, whether there was a God, or no? he should be vrged to confesse the truth of that rather *argumento bacillino, quàm Aristotelico*, rather with a good cudgell, then with any long dispute. But as they were most certaine, that there was a God, so were they againe very blinde in discerning the true God: and hence hath bin invented such a tedious catalogue of Gods, that as *Varro* verreth, their number hath exceeded thirty thousand, and proved almost numberlesse. Wherefore I shall omit to make any distinct treatise of the Gods, intending *obiter*, and by the way to speake of them, which either had priests, or sacrifices instituted for them. Only I purpose to shew what is vnderstood by those generall distinctions of the Gods, which diuers authors haue vsed. *Tully lib. 2. de legibus* reduceth all vnto three heads,

D 3

Gods

Gods celestial, which *Varro* calleth select, and others haue styled Gods *maiorum gentium*. i. of the greater nations, because their power was greater then the others. <sup>a</sup> *Alexander Neapolitanus* saith, that twelue of these were the *Pennates*, which *Aeneas* did take forth with him at the destruction of *Troy*. *Ovid* calleth them *Deos nobiles*, noble Gods: others call the *Deos consentes, quasi consentientes*, because *Iupiter* would do nothing without the consent of all. *Ennius* hath delivered them in this distich,

*Inno, Vesta, Minerva, Ceres, Diana, Venus, Mars,  
Mercurius, Iovis, Neptunus, Vulcanus, Apollo.*

The second sort of Gods were called *Semidei*. i. Demigods:

<sup>b</sup> *Servius*. in  
lib. *Georgic*.

also *Indigites*. i. Gods adopted, or canonized; men deified. For as the select Gods had possession of heaven by their owne right; so these Gods canonized had it no otherwise then by right of donation, being therefore translated into heaven, because they lived as Gods vpon earth: but because their merit was inferior, and could not parallel the deserts of the Gods select, therefore were they called Gods of inferior note. <sup>c</sup> *Servius* would haue these called *Diui*; observing this difference betweene *Dij* & *Diui*, that *Dij* should signifie those which had bin Gods perpetually, but *Diui* should signifie men made Gods, though commonly they are vsed one for another. Whence they called all their Emperours *Diui*, because for their deserts they thought them worthy to be Gods. Now the <sup>d</sup> manner how a man became deified was this: The party to be canonized being dead, a pile of wood was made in forme of a great tent, or tabernacle, with three other lesser tabernacles one vpon top of another, the lower-most having in it dry combustible matter, but in the out-side adorned richly with gold, Ivory, & painted tables: vpon the top of which was placed an eagle made of some light matter, as paper, or thin wood. Hither the dead corps was to be caryed with great solemnities; the Senate, the gentlemen, and al the chiefe magistrats going before, with hymnes and songs, and al kinde of honor, which

<sup>e</sup> In *Aeneid*.  
lib. 5.

<sup>f</sup> *Rosinus* antiq.  
lib. 3. c. 18.

which was to be performed even to the Gods themselves. He being in this manner brought, and laide within the second tabernacle, the fire was kindled, by reason of the smoake and vapor whereof the Eagle was carryed vp into the aire, and, as the *Romans* thought, it did transport the soule of the dead body into heaven, in so much that ever after he was canonized amongst the Gods, and worshipped as a God. And because they were thus turned into Gods, some haue called them *Deos animales*, <sup>e</sup> *quoniam anima humana verterentur in Deos*. The third sort were those morall <sup>lib. 3.</sup> vertues, by which as by a ladder men clymed into heaven: and therefore did men stile them Gods, because by their meanes men became deified. Late writers perceiving that all the number of the Gods could not bee reduced vnto these three heads, haue added a fourth sort, which they <sup>f</sup> call *Semones, quasi semi-homines*, because ancient writers, as *Rosinus* hath obserued, called men *hemones*, not *homines*. <sup>g</sup> *Rosinus* antiq. lib. 2. c. 17. In which point I shall willingly condescend vnto him; but I shall leaue to the iudgement of others, to determin how iustly he hath restrained the Gods *minorum gentium*, of the lesser nations, only vnto this last *classis*: whereas my opinion is, that the demigods, the morall vertues which haue beene stiled Gods, and these *Semones*, may all of them bee called Gods of the lesser nations, standing in opposition with the Gods select, which are called Gods of the greater nations. But that we may vnderstand what is meant by these *Semones*, we must remember, that by them are signified vnto vs not those Gods, which doe appertaine to man himselfe, but to the necessities of mans living, his victuals, his cloathing, and the like: not to the being of a man, but to the well being of him, of which sort is *Salus, Fortuna*, with others. We read likewise of other names given in common to diuers Gods, not as opposite members of a diuision, but as notes of distinction drawne from the diversity of helpe, which they severally did afford vnto man. In this respect some were called *dij Patrij*, or *tutelaes*, such as had



undertaken the protection of any citie, or towne: which opinion hath sometimes beene entertained by our English-men, and thence haue risen these, and the like speeches S. George for England, S. Denys for France, S. Patrick for Ireland, &c. And the Romans being fully perswaded of the truth thereof, whensoever they went about to beseege any towne, by certaine enchantments, or spells they would first call out these Tutelar Gods; because they deemed it a matter impossible to captivate the citie, as long as these Gods were within; or at least they thought it a crime unpardonable to take the Gods as prisoners. And least other nations might use the same meanes in beseeging Rome, therefore, & as diverse authors haue thought, the true name of the Romane citie was never knowne, least thereby the name of their Tutelar God might bee descryed. Others namely the *Tyrians* haue tied fast their God *Hercules* with a golden chaine, thereby the more to secure themselves of his residence among them.<sup>b</sup> Others haue beene called *Dij communes*, namely *Mars*, *Bellona*, and *Victoria*, because in time of war they are not bound to either side: but sometimes they helpe one side, and sometimes the other. And as they supposed some Gods to haue the protection of whole countries, so did they beleue that others had the charge of particular men; and that so soone as any man was borne two spirits did presently accompany him invisibly, the one termed the *bonus Genius*, or good angell, perswading him to that which should be good: the other called the *malus Genius*, or evill angell, tempting him to that which should be hurtfull: insomuch that they thought all the actions of man to be guided by these angels called *Genij*, so that if any misfortune befell a man, they would say that the matter was enterprised *Dys iratis*. i. our *Genius* being displeased with vs. *Virgil* calleth these bad Angels *Manes*, as it appeareth by that, *Quisq. suos patimur manes*, .i. Every man hath his evill Angell. i. some misfortune. They are therefore called *Genij*, because they haue tuition of vs

<sup>a</sup> Sylvius in  
epist. viro  
illustrium.

<sup>b</sup> Alex. Gen.  
dier. l. 6. c. 4.

so

so soone, as we are *Geniti*. i. borne, although every place had also his *genius*, as hereafter shall appeare. This opinion was the more confirmed by a vision which appeared vnto <sup>i</sup> *Brutus* in *Asia* neere vnto the time of his death: for *Brutus*, watching vpon a certaine night in his pavillion, the candle being nere spent, saw a fierce tragical person appeare vnto him, somewhat bigger then a man, and hce presently being of an vndaunted spirit, demanded whether he were a God, or a man? To whom the vision answered, *Brutus*, I am thy evill *Genius*, which haunth thee, thou shalt see me at the citie *Philippi* againe. And the same vision appeared vnto him, as he was fighting at *Philippi*: which was the last fight that ever he fought. And because that *Iuno* was wont to be invocated in time of child-birth, therefore many haue thought that every man hath not his two angels, but one angell, and *Iuno* to obserue him. This *Genius*, as often as he is vnderstood for the good or evil angel which hath charge of a mans body, is painted in forme of a man, as we read he did appeare to *Brutus*; though sometime he is painted as a young boy, sometime as an old decrepite man, <sup>k</sup> but alwaies with a crowne of plane-tree, <sup>k</sup> which therefore was called *genialis arbor*. In the right hand he held a platter over an altar garnished with flowers. In the left he held a scourge hanging downe. The sacrifice that was performed vnto the *Genius* was wine, and flowers: wherevpon (as if by wine, and fragrant odors were signified all kind of pleasures) certaine proverbial speeches haue beene occasioned: as when we see a man giuen much to his pleasure, and daintie feeding, we say hee doth *indulgere Genio*. i. pamper or make much of his *Genius*: on the contrary he that is abstemious, & debarreth himselfe of his pleasure is said *defraudare Genium*, to defraud his *Genius*: & *Genialis* also signifieth iocund, or pleasant.<sup>l</sup> It was also the custome after meals to haue a cuppe passe round the table, much like vnto our *poculum charitatis*, and it was called *poculum boni genij*. But the reason, why they would not 'a-

<sup>i</sup> Plutarch. in  
Biuro.

<sup>k</sup> Rosin. An-  
tiq. l. 2. ca. 14

<sup>l</sup> Vid. Eras-  
m. Adag.

E

cri-

crifice vnto their *Genius* by killing some host, as they did to their other Gods, was, because they iudged it vnfit to deprive any creature of his life vpon that day, when they first begā their life. (For this sacrifice was performed yearly by every one vpon his birth day. ) The other *Genius*, which is supposed to haue chiefe power over high waies, and places, being therefore called *Genius loci*, was pictured in the forme of a snake, in which forme *Virgil* faineth him to haue appeared to *Aeneas*, when hee performed the funerall rites due vnto his father *Anchises*, *Aenead. lib. 5.*

--- *A dyt is cum lubricus anguis ab imis*

*Septem ingens gyros, septena volumina traxit.*

And *Perſius*,

*Pinge duos angues, pueri sacer est locus, extra*

*Meiite, .i. duos genios.*

<sup>m</sup>Franc. Syl-  
vius in orat.  
pro Sext. Ro-  
scio Amer.

Another sort of Gods was supposed to haue the keeping of mens houses:<sup>m</sup> which they painted in forme of a dogge: because those to whom the charge of houses is committed ought to resemble dogges, that is, to seeme fierce, and angry towards strangers, but gentle, and kind to those of the household. They were named *Lares*, and because of the charge, they had over mens houses, this word *Lar* is sundry times taken for an house it selfe, as *parvo sub Lare*, *Horat.* in a little cottage, *Homo incerti Laris*, .i. a man that hath no house to dwell in. *Sen. in Med.* And the custome in sacrificing vnto them, was to eate vp all whatsoever was left of the offering. For they thought it an heynous matter to send any part of that sacrifice abroad either among their friend, or the poore: and therevpon when we see a glutton leaue nothing in the platter, not so much as the curtesymorsell, we say, *Lari sacrificat*, .i. he sacrificeth to his household God.

Lib. 2



Lib. 2. Sect. 2.

Of the Romane Priests with some particular Gods.



*Aunus* the ancientest of all the kings in *Italy* was the first, that brought any forme of religion into *Italy*. He consecrated groues, gaue names vnto cities, erected temples, ordeined sacrifices, &c. from who the churches, as some say, were named *Fana*. But after *Faunus*, *Euander* comming out of *Arcadia*, and afterward being king of *Latium*, he instituted, and appointed many other ceremonies, which before were vnknowne to the Latins. After him *Aeneas* comming from *Troy*, taught many of the *Troian* ceremonies: by whose examples *Romulus*, and *Numa* were incited to adde many other kindes of holy rites, and at length reduced their whole religion into a certaine order. My intent therefore is, to speake first of the God, in whose honor these holy rites were performed, and then to descend vnto the priests, which were to performe them, shewing withall the ceremonies they vsed in the performance.

CHAP. I.

*De Pane Lycão, sive Iuno: de Lupercis, & Lupercalibus.*

**P***An* was supposed to bee the God of the shep-heards, and is<sup>a</sup> thus described: he is pictured naked, having<sup>a</sup> hornes in likenesse of the sunne-beams, a long beard, his face red like the cleere aire, in his breast the starre *Nebris*, the neather part of his body rough, his feete like a

<sup>a</sup> Servius in  
Virg. Ecl. 2.

E 2

goat

goate: in one hand he holdeth a pipe, in the other a shepherds crooke, and alwaies is imagined to laugh. <sup>b</sup> He was worshipped first in *Arcadia*, and there called the God *Pan Lycæus*: but afterward he was had in great esteeme at *Rome* and in the honor of him certaine sacrifices, & games called *Lupercalia* were solemnized by the *Romanes*. <sup>d</sup> There he tooke the name *Inuus*, or as some say *Iunus*. Concerning the time, where these sacrifices were to be performed; it was vpon the vnfortunate daies of the month *February*, which hath his name à *februando*, from purging: whence the feast or game is as a purification; though the Latin word signifieth as much as a feast of woules, in a memoriall that *Romulus*, and *Remus* were nursed by a shee-woulfe. This seemeth very probable, because the Priests, which were called *Luperci* began their course at the foote of the mount *Palatine*, called by the *Romanes* *Lupercal*. i. the place, where the woulfe nursed <sup>f</sup> *Romulus*. The ceremonies were these: The hoast (being two goates) was to be slaine; and two noble mens sonnes were to bee present, whose foreheads being bloudded with the kniues of them that had slaine the goats, by & by were to be dried vp with wooll dipped in milke. Then the young boyes must laugh immediately after their foreheads were dry. That done they cut the goats skins, & made thongs of them, which they tooke in their hands, & ran with them all about the city stark-naked (saying they had a cloath before their privities) and so they strook with those thongs all they met in the way. The young wiues did never shun them at all, but were well contented, to be strikē with them; believing it helped them to be with childe, and also to be easily delivered. Moreover it is to be noted, that a dogge was sacrificed at this time, because there is a naturall antipathy, or contrariety of nature, betweene the dogge and the woulfe: whereby *Romulus* thought to testifie his gratefulnesse vnto the woulfe for her paines in nourishing him. The reason why the priests ranne vp & downe the streetes naked, was, because that *Pan* the God of this

<sup>b</sup> Fenestella de sacerdot. c. 1.

<sup>c</sup> Fenest. lib. 1.  
<sup>d</sup> Pomponius Letus de Sacerdot. cap. de Luper.  
<sup>e</sup> Plutarch. in Romulo.

<sup>f</sup> Plutarch. in Romulo.

sacrifice was painted naked. As the feast, so also the place from whence they came, and likewise the Priests had their names à *Lupa*, which signifieth a woulfe. Some authors haue observed three sorts of the *Luperci*, some called *Fabiani*, some *Quintiliani*, from *Fabius*, and *Quintilius* their governours: the third sort, which <sup>g</sup> *Rosinus* affirmeth to haue beene added in the honor of *Julius Caesar*, I cannot finde according to his quotation in *Suetonius*. But thus much *Suetonius* saith in <sup>h</sup> another place, namely that *Augustus Caesar* when he was chiefe Pontific did restore these games againe being formerly abolished.

<sup>g</sup> Rosin. antiqu. lib. 3. c. 2.

<sup>h</sup> Sueton. in August.

## CHAP. 2.

## De Cerere, &amp; sacris eius.

**C**eres otherwise called *Eleusina* was honoured first among the *Grecians*, afterward among the *Romanes*, as a goddesse, which first taught men the skill of husbandry.

*Prima Ceres ferro mortales vertere terram Instituit. Virg. Georg.*

Whence shee is sometimes *metonymicōs* taken for corne, as *Credenda Ceres aruis. Ovid.* It is seed time. Shee is called *Ceres*, <sup>i</sup> quasi *Geres*, à *gerendis frugibus*, from bearing fruit: <sup>1</sup> Cic lib. 3. because, as some say, by *Ceres* is vnderstood sometime the earth it selfe: whence also *ἡ μήτηρ* being the greeke name of *Ceres* is said quasi *μήτηρ*. i. the earth, which is the common mother of vs all. <sup>k</sup> Shee is painted in the habit of a matron wearing a garland of corne; sometime sorrowful with a lampe in her hand, as if shee were seeking out her daughter *Proserpina* caryed by *Pluto* into hell; & sometime with a handfull of corne or poppy-seed. Vpon the first of the Kalends of *Aprill* the *Romanes* were wont to performe sacrifices vnto her, which they called *sacra Graca*. i. the *Grecian* sacrifices as likewise they tearmed the chiefe womā which did performe them, *sacerdotem Gracam*. i. the *Greek* minstress, because they were translated into *Rome* out of *Greece*

<sup>k</sup> Rosin. antiqu. lib. 2. c. 11.

<sup>1</sup> Plautus in  
Aulularia.

by *Evander*. The time of their solemnities was at the dawning of the day, and the Priests, which were only women ran vp and downe with lamps in their hands in manner of mad women; into whose temple none that was guilty of any fault committed might enter: whose mysteries were to be buried in silence, and by no meanes to bee blabbed abroad. And as it is to be supposed, that was the reason why all wine was forbade in this sacrifice. So that hence<sup>1</sup> we say *Cereri sacrificat*, he sacrifices to *Ceres*, when he maketh a feast without wine.

### CHAP. 3.

*De Potitijs, & Pinarijs, Herculis sacerdotibus.*

<sup>m</sup> Serv. Æn.  
lib. 8.

**H**ercules had an altar erected in the memorial of him neere vnto *Tiber* by *Evander*, vpon occasion of the heards-mens complaint brought vnto *Evander* of him, whom they accused to haue slaine their chiefe heards-man *Cacus*, the history being<sup>m</sup> thus. *Hercules* after his conquest over *Geryon* brought away with him certaine goodly Oxen, and as well to rest himselfe, as to pasture his oxen, he laid him downe to sleepe in a greene field neere the river *Tiber*. In the meane while a certaine heards-man called *Cacus* happened to come that way, & perceiving *Hercules* to be in a sound sleepe, he stole away two of his oxen, which he hid in a caue, or hollow rocke, pulling them in by the taile backward, thinking that *Hercules* whē he should looke his oxen, and see the print of the footsteps, would easily beleue, that his oxen had rather gone out from that rocke, then into it, as indeed he did for a time beleue; but afterward by the bellowing of the oxen within, answering their fellowes without, *Hercules* entred the rocke, & finding the theefe *Cacus* there with his oxen, he killed him, by reason of which murder he was brought before *Evander*, and after a while knowne to be the *Hercules*, of whō the prophetesse *Carmenta* had foretold vnto *Evander*, that he should be a God. Wherevpon *Evander* presently saluted

ted him by the name of *Hercules* the sonne of *Iupiter*, and in honour of him caused an altar to bee built there in that place: vpon which yeerely was to be offered vp an heifer which had never borne yoke; and that this sacrifice might be had in the more esteeme, two noble men well stroken in yeares, and of good repute among the *Romanes*, one of them being called *Potitius*, and the other *Pinarius* were appointed as the Priests to performe these sacrifices; from whom ever after *Hercules* his Priests were called *Potitij*, and *Pinarij*. Where by the way we must obserue, that *Pinarius* was not the sur-name of this old noble-man, but a name added vnto him, intimating his, and his successours punishment for not comming soone enough according to the time appointed by *Hercules*. For, as<sup>n</sup> diuers writers testify, the entrals of the hoast were almost eaten vp by the family of *Potitius*, before *Pinarius*, & his familie came; and in punishment of their negligence *Hercules* enioyned the *Pinarij* never after to eate of the entrals, giving thē this name *Pinarij* at that time, from the greeke word *πειν*, signifying hunger.

<sup>n</sup> Serv. Æ. ci.  
lib. 8.

### CHAP. 4.

*De Fratibus arualibus.*

**T**His college or company of Roman Priests may be englished the *Arvall fraternity*; the number of them being twelue, eleven of them naturall brothers, sons to *Acca Laurentia Romulus* his foster mother; for which respect *Romulus* yeelded himselfe hir adopted sonne, instituting this order in the honour of the Gods, that they being therewith appeased might the willinger cause the earth to fructifie, and added himselfe to the former eleven as the twelfth priest or brother to helpe in the performance of this publike sacrifice. Moreover beside the performance of this sacrifice, these twelue were appointed *arbitrators*, or iudges to decide controversies concerning land-markes, and bounds of the field, frō whence they tooke their name

<sup>o</sup> Fenest. de  
Sacerd. c. 3.

fra-

*fratres Arvales*. Their sacerdotal ornaments was a garland of wheat bound vp with a white riband, this being, as *Pliny* writeth, the first crowne, or garland amongst the Romanes.

## CHAP. 5.

*De sexaginta Curionibus.*

**A**fter that *Romulus* had divided the whole body of the Romanes into three tribes, or wards, and subdivided those three wardes into thirtie parishes, called *Curia*, he ordained out of each *Curia* two parish Priests or Curates, called *Curiones*, or *Flamines curiales*; which were publicly to offer vp sacrifice in the behalfe of the people. Neither was every one equally capable of this honour of Priesthood; but he was to be at the least fiftie yeares olde, of a life vnspotted, and a body vnmaimed. And over all these there was one which had chiefe rule, & therefore was called *Curio Maximus*, the Bishop, or chiefe Prelate: and these sacrifices were called *Curionia*.<sup>1</sup> Their sacrifice being ended each parish had a feast in a common hall built for that purpose: it was called *Domus Curialis*, & sometimes *Curia*.

## CHAP. 6.

*De Auguribus, & eorum Collegio.*

**A**mongst other kinds of Fore-tellers we read of three principally vsed in former time, namely, *Aruspices*, *Auspices*, and *Augures*: all which wee english Sooth-sayers, though the Latine words do import a main difference worth our observation. The *Aruspices* did divine, or fore-tell things to come by beholding the entrails of beasts sacrificed: whence they had their name, *ab aras inspiciendo*, from beholding the altars. The *Auspices* did foretell things by beholding the flight of birdes, so that *Auspices* are said *quasi avis pices*, *ab aves aspiciendo*. The *Augures* did divine from hearing the chatting or the crowing of

of the birds: whence they are called *Augures ab avium garritu*, from the chirping and chatting of birds. These two last kinds of soothsaying haue occasioned these, & the like phraises, *bonis avibus*, or *auspiciis*, with good lucke, *malis avibus*, i. with ill lucke: and because they would beginne nothing *inauspiciis*, i. without the counsell of the *Augures*, hence *Auspiciari rem* hath beene translated, to beginne a matter. The colledge of the *Augures* at Rome was first appointed by *Romulus* himselfe being very expert in soothsaying, there being at the first but three, namely one of each tribe: (The word *Augur* being not taken in his owne proper sense, and significatiō aboue-mentioned; but generally by the trope *Synecdoche*, signifying all kindes, and sorts of divining whatioever, whether it were by observing the entrails of beasts, the flying, screeching, & chatting of birds, or thundring, or lightning in the heaven, or marking the rebounding of crummes cast vnto birds, which kind of divining was called *Tripudium*.)<sup>2</sup> *Servius Tullius* the sixth Romane king, when he divided Rome into foure locall tribes, i. Regions, or quarters, then did he adde the fourth *Augur*, all of them being elected out of the *Patricij*, or the nobilitie of Rome. In processe of time *Quintus*, and *Cneius Ogulnius* being chosen *Tribuni plebis*, i. protectors of the commons, obtained that five other *Augures* should be chose out of the commonaltie, and added vnto the former foure: at which time the Senate decreed that the college of *Augures* should never exceed the number of nine.<sup>3</sup> Notwithstanding *Sylla* being *Dictator* added

<sup>1</sup> Fr. Sylvius in orat. pro Cluentio.

<sup>2</sup> Pomp. Lætus cap. de Augur.

<sup>3</sup> Rosin. Ant. lib. 3 cap. 8.

<sup>4</sup> Rosin. ib.

<sup>5</sup> Rosin. ib.

<sup>6</sup> Alex. Gen. dier. l. 5 c. 19.

<sup>7</sup> Alex. ib.

should presently be discharged of his office, and another chosen in his place.<sup>c</sup> The manner how the *Augur* did observe was this: He sate vpon a castle, or a towre, the ayre being cleere, and faire without clouds, or raine, holding a crooked staffe, (called in Latine *Lituum*) in his hand, where he sitting in his soothsayng robe, called *Lana*, & in Greeke *χλαίνα*, *παρὰ τὸ χλαίνειν*, à calefaciendo, from heating, because it was well lined within, being garded in the outside with purple and crimson gards) hauing his head covered, and his face turned toward the east, so that his backe was west-ward, his right side southward, & his left northward. Being thus placed he quartred out with his crooked staffe the heaven into certaine *templa*. i. Regions, or places, observing in what region the birds did appeare: Then killing his sacrifice, and offering vp certaine prayers called *Effata*, he proceeded in manner as followeth. But first suppose we for our better vnderstanding hereof, that now the *Augurs* were to resolute the people, whether the Gods would assent that *Numa Pompilius* should be King. The *Augur* hauing done as aboue is shewne, his *Lituum* being in his left hand, he reached forth his right hand putting it vpo *Numa Pompilius* his head, vsing this forme of words, *Iupiter pater, si fas sit Numā Pompiliū, cuius ego caput teneo, regem Roma esse, uti nobis signa certa, ac clara sint inter eos fines, quos feci*. i. If it be lawful for this *Numa Pompilius*, whose head I hold to bee king of *Rome*, shew some manifest tokens within these regions, or quarters, which I haue described. Then if he observed lucky signes, and tokens, he presently pronounced *Numa Pompilius* king of *Rome*: if he perceived vnlucky tokens, then did he *obnunciare*, or gaine say, and shew that the matter proposed was not pleasing to the Gods. Where by the way we must note, that nothing was confirmed by the *Augurs* without the appearance of two lucky tokens one after another; neither was any thing gaine said by the appearance of one only evill token. The distinctions of the soothsayings haue beene taken, some from the event, and thence

thence are they called *prospera*, lucky, or *adversa*, vnlucky. Some from the manner of their appearing,<sup>d</sup> and that was either wished being called therefore *impetrativa*; or vnlucky called *oblativa*. Some from the diversity of things which offered themselves in time of divining, and so there were five distinct sorts: The first was by the observing of lightning, and thunder from heaven; the second from the flying, and chatting of birds; the third from bread cast to pullets, or little chicken; the fourth from foure footed beasts, which either should crosse the way, or appeare in some vniaccustomed place; the fifth from those casualties, whereby the Gods doe make their anger appeare vnto vs. Of this sort are those voices, which we heare we know not whence; (as <sup>e</sup> *Cadmus* heard when he overcame the serpent) the falling of salt towards vs at the table, the shedding of wine vpon our cloathes. From which casualties, & the like the *Augurs* would pronounce either good fortune, or bad to ensue: And these tokens were therefore called *Dira*, because thereby *Dei ira nobis innotescit*, the Gods anger is made knowne vnto vs. Now the things that in divining time appeared on the left-hand were commonly tokens of good lucke, because the givers right hand in bestowing a benefit is opposite to the receivers left hand. Whence <sup>f</sup> *sinistrum* though in humane affaires signifieth as much as vnlucky, yet in those holy rites of divining *sinistrum* is taken in a contrary sense, as *Avis sinistra*, good lucke, *In tonuit lauum*, it hath thundred luckily, we shall haue good successe: and it is said a *sinendo*, because the Gods thereby doe suffer vs to proceede in our purposed proiects. And therefore *Tully* saith, lib. 1. *de divinatione*, *A sinistra cornice ratum, & firmum augurium fieri*: and in the law of the 12. tables it is said, *Ave sinistra populi magister esto*.

## CHAP. 7.

De Tripudijs, &amp; pullarijs.

<sup>8</sup> Cic. de di-  
vina: lib. 1.

<sup>h</sup> Hubert. in  
lib. 6. Ep. fam.  
Cic.

<sup>i</sup> Alex. Gen.  
dier. l. 1. c. 29.

<sup>h</sup> Alex. ib.

**T**His kinde of coniecting is called *auspiciū coactum*, <sup>8</sup> *quoniam necesse erat offā obiectā cadere frustum ex pulli ore, cū pascitur*. The word *Tripudium* is vsed by a *syncopation* for *terripudium*, which is as much as *terripavium*. i. a dancing or rebounding of any thing vpon the ground: for *pauire* is the same with *ferire*.<sup>h</sup> Others say *Tripudium quasi tritio pedum*. It is here taken for a divining, or coniecting of good or evill to come by the rebounding of crums cast to chickē in a coop or pen: whence the *Augur* from these pullets or chicken was called *Pullarius*.<sup>i</sup> The manner in observing was this. As often as by this kinde of coniecting they desired to know the Gods pleasure concerning the enterprizing of any matter, early in the morning those that were skilfull in this kinde of observation, repaired vnto the place where the chickē were kept, where silence being commanded, and the coop opened, they cast crums of bread to the chicken. Now if the chicken either came slowly, or not at all vnto the bread, or if they walked vp and downe by it not touching it, then was it a token that the matter to be enterprized was displeasing vnto the gods: but if contrarily the chicken did hastily leape out of the coop & eat so greedily of the crums, that some should fall out of their mouthes againe, then the *pullarius*, that is, the *Augur* pronouced that it was wel pleasing to the Gods, and encouraged the enterprizing of what they had intended cheerefully: and this was called *Tripudium solistimum*. This kinde of coniecting may seeme to haue its originall from the *Lycians*,<sup>k</sup> who as often as they desired to fore-know the successe of any enterprise, they went vnto a fountaine dedicated to *Apollo*, into which they cast in baites for the fish: now if the fishes did eate them, it did betide good lucke; if otherwise they neglected the baites, then it did betoken some evill event.

CHAP. 8.

*De Aruspiciū, Aruspiciā, & Extispicio.*

This

**T**His kinde of soothsaiers as they were called *Aruspices* *ab aras aspiciendo*, from beholding the hoast vpon the altar; so were they called *Extispices*, *ab exta aspiciendo*, from beholding the bowels, or entrals of the beast, called in Latine *Extā*. In this kinde of soothsaying the *Aruspex* observed in manner as followeth: <sup>1</sup> first whether the beast to bee sacrificed came vnto the altar willingly, without plucking, and halling; whether he dyed without much struggling, or lowd bellowing; at one blow, or many; whether any vn-lucky obiect were seene, or heard by thē, whiles they were sacrificing. Againe after the beast was slaine, then would they obserue, whether the bowels were of an vnnatural color, whether they were not vlcrous, exsiccate, or impostumated: moreover they would divide the bowels into two parts, the one they would call *partem familiarem*, from whence they would fore-tell what should befall thēselues, & their friends; the other they would call *partem hostilem*, whēce they gathered predictions touching their enemies. Hence *Manto* in <sup>m</sup> *Seneca* describing the entrals of his killed sacrifice saith, *Hostile valido robore insurgit latus*, meaning by *hostile latus*, *partem hostilem*.<sup>m</sup> Afterward when the sacrifice was to be burned, they considered, whether the flame of the fire was smoaky, whether the smoake rolled, and tumbled in the aire, whether it were of any continuance or no: for all these were vnfortunate tokens, as the contrary did betoken a good and fortunate issue to their designements. These last which observed the fire & smoak were called by a more peculiar name *Capnomantes* smoak-augurers, from the greek words *καπνός*, signifying smoake, and *μαντις*. i. *vates*, or a soothsayer. The first instructions that the *Romanes* received was from the *Hetrusci*, who (as they themselves say) received their knowledge from a little boy, which they named *Tages*, the history being thus. <sup>n</sup> When the *Hetrusci* were plowing their lands, vpo a sudden vp started this *Tages* out of one of the furrows vling diverse speeches vnto the plow-men: but they being much

<sup>1</sup> Senec. Oed.  
Act. 2. scen. 2.

<sup>m</sup> Oedip. Act.  
2. scen. 2.

<sup>n</sup> Cic. de di-  
vinat.

<sup>as</sup> Indigene dixē-  
re Tages, qui  
primus Hetrus-  
cam edocuit ge-  
tem, casus ape-  
ire futuros. O.  
vid Met. l. vi.



affrighted at this sudden, and strange vision, began with a lowd crie to lift vp their voices; vpon occasion wherof many other people flocked thither, where hee gaue many good instructions concerning this kinde of soothsaying, which were presently recorded in bookes, and practised afterward by the *Herrusci*.

## CHAP. 9.

## De Flaminibus.

o Rosin. an-  
tiq lib. 3. c. 15  
P Rex Anius,  
rex idem homi-  
num Phœbiq, sa-  
cerdos, Virgil.  
Æneid. lib. 3.

**T**He mitre or head-ornament which these Priests did weare, was called in old time *Flama*, whence the Priests tooke their name *Flamines*. The custome amongst the *Grecians*, as likewise afterwards among the *Romanes* was, that the kings should as well performe ceremonies, & holy rites of religion, as civill businesse. But *Numa Pompilius* perceauing that forraine warres did often times occasion the kings absence, inso much that those religious ceremonies which he himselfe personally should performe were of necessitie sometimes neglected, here vpon he ordained out of the *Patricij* three priests to performe that diuine service vnto *Iupiter*, *Mars*, and *Romulus*, which hee himselfe otherwise ought to haue performed, calling the first *Flamen Dialis*, the other *Flamen Martialis*, & the last *Flamen Quirinalis*, from *Romulus*, which was often called *Quirinus*. In proceesse of time twelue others chosen from the commons were added vnto these, but with this note of distinctiō, that the three first were had in greater esteem, & were called *Flamines maiores*, high priests; the other of lesse note called *Flamines minores*, inferior priests. The chiefe, of al was the *Flamē Dialis Iupiters* high priest, & wheras every one did weare a certain bonet in forme of a mitre, which sometimes was called *Pileum*, sometime by the figure *synecdoche Apex*, (wheras *Apex* doth properly signifie only the top of the bonnet) none might weare *Albo-galerum*, i. a white mitre, but only *Iupiters* priest, and that was to be made of a white sheeps skin, after the sheep had been sacrificed

1 Alex. Gen.  
dier. l. 6. c. 12.

crificed. Whatsoever malefactor could escape vnto this Priest, he should not be punished that day. None was eligible into this office, but he that was married: neither was it lawfull for him to marry twice, but if his wife died, *Flaminio abibat*. i. hee resigned his sacerdotall office. To him was permitted a rich robe of state, & a curule-chaire: none might fetch fire out of his house, vnlesse it were to performe some sacrifice therewith. None might barbe or pole him, but a free-man, and that with a brassen scissers. Many other ceremonies there were which concerned this *Flamen*, as likewise time added many other *Flamines*, namely <sup>r</sup>every God one, yea sometime those threescore parish-priests, which formerly were called *Curiones*, were called *Flamines Curiales*; and diuerse Emperours after their death had also their *Flamines*. Moreouer we must note that those priests wiues were called *Flaminicæ*; Their ministers (for they were wont, whē they went to sacrifice to take a boy or a maide with thē) *Flaminij*, or *Flamineæ*. And the Chiefe-flamens dwelling house was called *ades Flaminea*, or *Flaminia*. But as it seemeth probable *Numa Pompilius*, and so the other kings succeeding him did still reserue their right & authority in holy matters so farre, that they would instruct other inferior priests, yea & personally performe some special sacrifices thēselues: wherevpon after that the kings authority was abrogated amongst thē, thē that these sacrifices might be continued, they chose a certaine Priest, which they preferred before the *Flamen Dialis*, but iudged him inferiour to the *Pontifex maximus*, or Arch-Pontife, and him they called, *Rex sacrificulus*, and *Rex sacrorum*, the King priest. To him once every yeare the Vestall Nunnes repaired, and vsed this forme of words, *Vigilæ Rex? Vigila.* King art thou awake? awake. For vnto him it did belong to bid holy-daies, and to provide al things necessarie for publike sacrifices. He was to instruct those that fought vnto him, the causes of the holy daies, and to tell them what was lawfull or vnlawfull every month, and vpon the fifth of the Ies do

r Servius Æn.  
lib. 1.

f Feneft de  
sacerd. cap. 5.

t Alex. Gen.  
dier. l. 6. c. 12.

r Serv. Æneid.  
10.



Januarie he sacrificed a Ramme to *Ianus*. He was likewise wont to offer vp a sacrifice in the *comitium* or great hal of iustice, which being finished, he ranne as fast as hee could out of the market place without delay. His wife was called *Regina sacrorum*, the Queene-priestesse, and was wont vp-on the Kalends of every month to sacrifice a porker or a lambe in her palace in the honour of *Iuno*.

## CHAP. 16.

*De Marte, seu Mavorte, & Salijs  
Palatinis Marti dicatis.*

**M***Ars* otherwise called *Mavors* by the figure *Epen-thesis*, as we say *Induperator* for *Imperator*, was reputed the God of warre, & so *Metonymicus* is vsed for warre; as *vario Marte pugnatum est*, the battell was doubtful; *proprio Marte*, by ones owne strength, & labor. He was the sonne of *Iuno* onely without company of her husband: for when *Iuno* was greatly displeased with her selfe, that *Iupiter* by striking his head without company of a woman did bring forth the goddesse *Minerva*, shee by the counsel of the goddesse *Flora* touched a certaine flowre in the field of *Olenius*, by vertue whereof shee immediately conceaued the God *Mars*. This God by reason of his dominion in warre, the Romans painted fiery, sometimes in his chariot, sometimes on horse-backe, with a iavelin in one hand, and a scourge in the other. In old coines there was sometimes the picture of a cocke ioyned with him, to shew the vigilancy, and carefulnesse that souldiers are to vse. He was called \* *Gradius* à *gradiendo*, from marching in battell against his enemies. He had a temple without the citie, whence he was called *Extramuranus*. 7 Neere vnto this temple without the gate *Capena* did lie a stone of great note, which vpon great drouths the people would bring into the citie, and presently rayne would follow, wherevp-on it was called the Raine-stone, *Lapis manalis* à *manando*. *Numa Pompilius* in the honour of *Mars* surnamed *Gradi-*

\* Rosin. an-  
tiqu. lib. 2. c. 10

7 Rosin. Ibid.

*us* ordained 12 dauncing priests called *Salijs* à *saliendo* 2 Plutarch. in  
from dauncing, which number afterward we finde to haue Numa.  
beene doubled by *Tullus Hostilius* in the warre against  
*Fidena* a towne of the *Sabines*. The former 12 being called  
*Salijs Palatini*, from the *Palatine* mount, where they did be-  
ginne their mauriske; the others *Collini* from the hill where  
their chappell stood; \* and sometimes *Quirinales*, & \* Dion. Halli-  
sometimes *Agonales*: so that the whole college contained carn. lib. 2.  
24 priests. b The occasion of their first institution was this: b Plutarch. in  
vpon a certaine time in the raigne of *Numa*, the plague or Numa.  
some other contagious sicknesse was very hot among the  
Romans, insomuch that no sacrifice, or holy offering could  
remoue it: at that time a certaine brazen target, or scutchi-  
on called in Latine *anea pelta*, or *ancile*, bigg at both ends,  
but cut like an halfe moone on each side fell from heaue in-  
to *Numa* his hãds, with a certain voice promising al health  
vnto Rome so long as that brasẽ target could be kept safe.  
Wherevpõ *Mamurius* a cuningwork-man by the appoint-  
ment of *Numa* made eleaven other *ancilia* so like the first,  
that neither could be known from the other: (to the intẽt  
that if any should be so wicked minded as to steale it, hee  
might faile of his purpose by mistaking one for another.)  
Thesetwelue Priests had the custody and keeping of them  
comitted to their charge, & in the month of *March* everie  
yeere they apparelled themselues with a party coloured  
coat, called *tunica versicolor*, girt cloase to their body, with  
a belt, or sword-girdle, and a breast-plate of harnesse cal-  
led *anenum tegmen* vpon that, & a robe of estate called *tra-*  
*bea* clasped about them vpmost of all. Vpõ their heads they  
did weare *apices*. i. caps c much like vnto the *Persian* bon- c Dion. Halli-  
nets called in greek *κρυβανίαι* or *κίραται*. They did somewhat carn. lib. 2.  
resemble our head-peeces in warre made close vnto the  
head, with a crest of cloath vpon the top, whence some  
haue called them *galeas*. They being thus apparelled daunc-  
ed about the *Forum*, or market-place, & the *Capitol* with  
short swords by their sides, a iavelin in the right hand, and  
their

their *ancile* in the other; vsing certaine songs either of the Gods, and those they called *Iannali*, *Iunoni*, and *Minervij*; or of men, and those they called *axamenta*, because in those songs they did *axare*. i. nominate and call vpon the names of some well deserving men: as *Mamurius* which made those eleaven scutchions, was often called vpon in those songs. Vpon these their festiual daies they had excessive of cheere, whence<sup>d</sup> *Horace* hath vsed *faliare dapes*, to signifie dainty fare.

<sup>a</sup> Horat. lib. 1  
Ode 37.

## CHAP. II.

## De Fœcialibus, &amp; Patre-patrato.

**T**Hese *Fœciales* were officers at armes, or Heralds, to denounce war, or proclaime peace, appointed therevnto at first<sup>e</sup> by *Numa Pompilius*.<sup>f</sup> The chiefe part of their office was to disswade the *Romans* from molesting any confederate nation with vniust warre: & if any confederate nation did offer iniury vnto the *Romane* people, the did these *Fœciales* go as Embassadours vnto them perswading, and exhorting them to yeeld the *Romans* their right: but if they continued thirty daies obstinate refusing to yeeld vnto that, which should be iust and right, then did they presently denounce warre against them, casting forth a dart in token thereof: which denunciation was<sup>g</sup> called *clarigatio à clarâ voce, quâ utebatur Fœcialis*. Others are of opinion that whensoever warre was denounced, this Herald at armes should<sup>h</sup> turne loose a ramme vnto their enemies borders; signifying thereby that their fields shoulde shortly become pasture for the *Romanos*: from which custome wee say of one that challengeth another into the field, *Arietemissit*. Again if the *Imperator*, or Lord-general had done ought against his oath, these *Fœciales* by their sacrifice did avert the wrath of the Gods from him. The chiefe of them was called *Pater-patratus*, a perfect father: for he only could be *Pater-patratus*, which had both children of his owne, and his father also aliue. They were called

<sup>a</sup> Pomp. Læ-  
tus de sacerdot.  
<sup>f</sup> Dion. Halic.  
car. lib. 2.

<sup>g</sup> Serv. Ænci.  
lib. 10.

<sup>h</sup> Vid. Erasmi  
adag.

led *Fœciales à fœdere faciendo*, from making a league or peace betweene nations. This league which we in Latin do call *fœdus*, the *Romanes* in old time<sup>i</sup> did call *Fidus*, as *Ennius* and *Pighius* witnesse: whence these *Fœciales* were tearmed also *Fidei Flamines*.

## CHAP. 12.

## De Duumviris, Decemviris, &amp; Quindecimviris sacris faciundis: item de Sibyllis.

**T**His priesthood had his first institution from *Tarquinius Superbus*, whose office was as well to expound, as to keepe the oracles of those ten prophetesses so famous through out the world, called *Sibyllæ*. Concerning whō<sup>k</sup> *Munster* hath these words: In times past there came a strange woman to *Tarquinius* the king offering 9. books full of the *Sibylline* oracles to be sold: But *Tarquinius* thin- king the bookes to deere, refused to buy them. The woman departing burned three of these bookes, and came the second time vnto *Tarquinius*, demaunding as much for those fixe bookes, as formerly shee had done for the 9. *Tarquinius* then began to deride her, whereat the woman departed, and burned three more, returning againe vnto *Tarquinius*, and asking as much for the three left, as shee asked at first for all nine. Then began *Tarquinius* more seriously to be- thinke himselfe thereof, and sent for his *Augurs* asking counsell and advise of them. And they vnderstoode by certaine signes observed, that the king had refused some speciall goodnesse sent from the Gods: and for the books that remained they advised that the woman shoulde haue what shee asked: As soone as the woman had delivered her books shee presently vanished, and was never seene againe, onlie warning them to keepe the bookes as safe as possibly they could. For the safe keeping of these, *Tarquinius* chose two of the noble men, or *patricij*, calling them *Duumviri*, appointing them as wel by study to expound, as with care to keepe those oracles. In proesse of time the people obtai-

<sup>i</sup> Pighius  
Septim. lib. 1.

<sup>k</sup> Munster in  
sua cosmog.  
lib. 2.

Penestel. de  
Sacerd. c. 13.

ned, that tenne should be appointed to this office, <sup>1</sup> five of them being chosen out of the commons, & five out of the nobles: and then were they called the *Decem-viri*. Afterward by *L. Sylla*, as it is thought, five more were added, so that they were then called the *Quindecim-viri*: nay the number was encreased by *Sylla* vnto forty, <sup>m</sup> as *Servius* thinketh, but stil called by the name of *Quindecim-viri*. Of these women that had the spirit of prophecie ten were very famous: the first was called *Persica*, the second *Libyca*, the third *Delphica*, the fourth *Cumaea*, the fifth *Erythraea*, the sixth *Samia*, the teauenth *Cumana*, the eighth *Heliespon-*  
*ria*, the ninth *Phrygia*, the tenth *Tiburtina*. They ai prophesied of the incarnation of *Christ*. The place where these bookes were kept was within the Capitol vnder ground in a chest of stone, where they remained safe vntill the burning of the Capitoll, at which time they also were burned. Norwithstāding many of the prophecies haue bin known, partly by tradition, and partly being takē out of other copies in other countries. One of the prophecies concerning our Saviour *Christ* was vttered by *Sibylla Delphica* in manner as followeth: <sup>n</sup> *Nascetur propheta absq; matris coitu ex utero eius*, that is, There shalbe a prophet borne without any copulation of the mother, even out of her wombe. It was spoken at *Delphos*. All their prophecies, were of that certainerie, that when we would averre any thing to be vndoubtedly true, we vse to say it is *Sibylla folium*, as true as *Sibyllaes* oracles. The *Cumaea Sibylla* did write her oracles at the mouth, or entraunce of her caue in leaues of trees, which the fiercenesse of the winde did often times so scatter, that they could hardly be brought in order againe: in somuch that when we would shew the great difficulty of bringing things in order, we may vse <sup>o</sup> *Politian* his words, *Laboriosius est, quam Sibylla folia colligere*, it is easier to gather together *Sibyllaes* leaues. This name *Sibylla* is not a proper name, but an appellatiue common to all women endowed with the spirit of prophecie, taking their denomi-

<sup>n</sup> Munster. in  
sua Cosmog.  
lib. 2.

*Credite me vo-  
bis folium reci-  
tare Sibyllae.*

<sup>o</sup> *Epist. lib. 7.  
epist. 1.*

mination frō *Poids* which is in the *Aolick* dialect the same <sup>p</sup> *Serv. Anci.* that *Θεός*. i. God, and *Εὐαδ*. i. counsell, because they did o- lib. 6.  
pen and declare the counsell & determination of God vnto the people. It appertained also ynto these *Quindecim-viri* aboue-mentioned to see, that sacrifice and diuine service, that supplications, and processions, expiations, and all ceremoniall rites were duly performed.

## CHAP. 13.

*De Bonâ deâ, & sacris eius.*

**T**His Goddesse, which is so famous by the name of *Bona dea*, is the globe of the earth, which is therefore termed *Bona dea*, the good goddesse, because we reape so many good things from the earth. She is called also *Ops* the helping goddesse *ab ope*, from helpe, because by her helpe we liue. Shee is called *Fatua*, and *Fauna*. i. the goddesse of speech, because young children doe neuer speake vntill they are able to goe, and so haue touched the earth. The *Grecians* called her *γυναικία θεός*, the female goddesse, because that no male might bee admitted to her sacrifices; nay the very pictures of men were at that time to be covered. The inner roome, where her sacrifices were, was called *τὸ γυναικῶν*, the place for womens assemblies. Those that were chiefe in these sacrifices were the Vestall Nunnes. This good goddesse was supposed to bee the wife of *Faunus*, and vpon a time to haue beene taken-  
<sup>q</sup> *Cic. orat. de*  
<sup>Arusp. respō-</sup>  
drunke with wine by him, for which fault *Faunus* is said to haue beaten her to death with rodde of mirtle tree. But afterward being sory for that he had done, in amends hee made her a goddesse: and as it were ever after detesting the mirtle-tree, he allowing all other hearbs, and flowers to be vsed in these sacrifices, forbade the mirtle-tree. Some say she was so chaste, that shee never was seene by any man but her husband, and in respect of his chastitie the mirtle-tree is forbid, because it was consecrated to *Venus*. But where, as in this sacrifice they vsed wine, they called it not by the

<sup>r</sup> Alex. Gen.  
dier. l. 6, c. 8.

name of wine, but milke or hony: whence they called the vessell wherein the wine was put, *amphoram mellariam*. i. the hony vessell. This sacrifice became very famous by reason of *Clodius*, who being in loue with *Pompeia*, *Iulius Cæsars* wife came vnto these sacrifices in womans apparell, & was found out by *Aurelia*, *Iulius Cæsars* mother. This *Clodius* became so infamous for this, and other his adulterous pranks, that hee occasioned a common proverbe amongst the *Romans*, *Clodius accusat mæchos*, answerable to which our English saying is, One cheefe accuseth another.

CHAP. 14.

*De Cybelle, & sacerdotibus eius.*

**T**His goddesse *Cybele*, or rather *Cybelle* was in her infancy exposed vnto wilde beasts vpon the hill *Cybellus*, where shee being nourished by the wilde beasts afterward became a woman of admirable beauty, & being found by a shepherds wife was brought vp by her as her own child, and called *Cybelle* from the hill *Cybellus*. Shee excelled in all naturall gifts, and was the first that vsed a taber, & pipe, and cymbals among the greekes. Moreover shee tenderly loved children, and therefore was called *magna mater*: shee was also called *mater deorum*, the mother of the Gods:

*Ipsa deum fertur genetrix Berecynthia. Virg.*

Shee was called *Rhea à pio*, to flow, because shee doth flow and abound with all kinde of goodnesse. Shee was also named *Pessinuntia* from the city *Pessinus* a Mart-towne in *Phrygia*, where shee had a temple. Moreover shee was called *Berecynthia* from the hill *Berecynthus* in *Phrygia*, where shee was worshipped. Her priests were called <sup>r</sup> *Galli*, and their chiefe governour *Archi-gallus*: they took their name from a certaine river in *Phrygia* called *Gallus*: of which whosoever dranke, he became so mad, that he would presently geld himselfe: (as in truth all her Priests were inioyned to geld themselues with a fish shell.) The originall of which custome is rendred thus: *Cybelle* loved a

young

Of the Romane Priests with some particular Gods. 55

young man of *Phrygia* called *Alys*: and him she appointed chiefe overseer for her sacrifice vpon condition that hee would keepe himselfe chaste perpetually: But he not long after deflowred a nymphe, for which fact *Cybelle* bereft him of his wits and vnderstanding, so that hee in his madnesse did geld himselfe, and would haue killed himselfe also, had not the Gods in their commiseration towards him turned him into a pine-tree. In remembrance of him, ever after her Priests were gelded. Every yeare the *Prators* did sacrifice vnto this goddesse. But the performance of the holy and religious rites at that time did belong vnto a *Phrygian* man, and *Phrygian* woman chosen for that purpose: which according to the manner of their country being appareiled with a party coloured garment called in Latine *Synthesis*, or *amictus variegatus*, and carying the picture of their goddesse about with them in the streetes, they stroke their breasts with their handes, keeping tune with the tabers, pipes, and cymbals, which other people following plaied vpon: and they were called *Corybantes* from one *Corybæntus*, which was one of her first attendants. And herevpon we call the cymbals *corybantia*. In this manner dancing about the streets they begged mony of the people whom they met: and hence were they named *Cybelle* her collectors, or her *circulatores*. i. iuglers. Some calleth them *μυλῆδες*, from *μύνη* which in this place signifieth *Cybelle*, called the great mother, and *ἄγυς* a begger or gatherer of almes. Others haue called them *Mitriaci*: But by what name soever they were called the place was so infamous by reason of their drunkennesse, and vncivilitie vsed at these times, that when they would point out a notorious naughtie fellow, they would call him *circulatore Cybelleium*. *Cybelle* her iuggler. Neither was it lawfull for any free borne to vndertake that office.

CHAP. 15.

*De Collegio Pontificum, & Pontifice Maximo.*

This

<sup>r</sup> *Cybelæus Alys Exuit hac heminem truncatq. induit illo. Ov. Met.*

<sup>u</sup> *Rosin. antiq. li. 3. c. 27*

<sup>r</sup> *Pomp. L. 2. c. 8.*

\* Plurarch, in  
Numa.

† Fenest. de  
sacerd.

‡ Rosin. an-  
tiq. lib. 3. c. 22

**T**His word *Pontifex* is commonly translated a Bishop or Prelate, being called *Pontifices* in Latine, as also *Pōtifies* in English from one part of their office, which was to haue the oversight of a great wooden bridge called in Latine *Pons sublicius*, being so great, that carts and waines might passe over it; having no arches to vphold it, but only great piles, and posts of wood: \* and that which is most remarkable in it, was that it was joined together only with wooden pinnes, without any iron at all. Others are of opinion that they were tearmed *Pontifices quasi potifces* from *potis*, and *facio*, of which opinion *Lucane* seemeth to bee, according to that, *Pontifices sacri quibus est commissa potestas*. Concerning the † number of them only foure were appointed by *Numa*, all which then were to bee chose out of the *Patricii*: afterward foure more were added out of the commons. These were called *Pontifices maiores*, or chiefe Pontifies, to distinguish them from seaven other, which afterward *Sylla* added, and ‡ called them *Pontifices minores*, inferiour Pontifies. The whole company of them was called the college of Pontifies. This college is privileged from all allegiance, being not bound to render an account of their doings either to the Senate, or Commonaltie. They were to determine all questions concerning religion, as well betweene their priests, as betweene private men. They had authoritie to punish any inferiour Priest, if he either detracted or added vnto those religious rites, which were prescribed him. They had their great *Pōtifie*, whom they called *Pontificem maximum*. These Pontifies were wont to exceed in their diet, insomuch that when the Romanes would shew the greatnesse of a feast, they would say it was *Pontificia cæna*, i. according to our english phrase a feast for an Abbot. *Cæna adijcialis* is taken for the same.

CHAP. 16.

*De epulonibus.*

The

**T**He Pontifies in old time appointed three men, whom they <sup>a</sup> called *Triumviros Epulonum* (from *Epulū* a feast) to haue the oversight of the feasts made at sacrifices; after-<sup>a</sup> *Lazius de*  
ward by reason of two twice added, they were called first *Quinquenviri*, and at length *Septemviri Epulonum*. *Repub. Rom. lib. 3. cap.*

CHAP. 17.

*De Titijs.*

**A**Nother sort of religious men there were which liued in the subvrbs of the city & practised soothsaying; They were called *Titij* <sup>b</sup> from the name of the birds which they observed, which in latine were called *Titie*. <sup>b</sup> *Pancirolius lib rerum de perdi arum cap. de mole Hadriani.*

CHAP. 18.

*De Virginibus Vestalibus.*

**N**Ere vnto *Castors* temple stood the religious house, or Nūnery dedicated to the goddesse *Vesta*: where at the first were fowre, after 6. Virgins, or votaries elected, whose office was chiefly to keepe the sacred fire: the extinction whereof proved ominous, and did portende some evill event shortly to happen: And therefore for their negligence herein, as for all other small faults, they being had into a darke corner, stripped naked, and a curtaine drawne halfe way over them, the chiefe Pontific scourged them: neither was it lawful to kindle the fire once put out, with any other fire, but from the sun beames; for which purpose they had certaine instruments named *σκαρπεία* <sup>c</sup> *Plutarch, in Numa.* which were formed in the māner of a pyramis, but hollow; so that the beames being collected within the circumference, & meeting in the vertex did easily kindle any combustible matter put vnto it; but chiefly if the matter was of blacke colour: because, as philosophy teacheth, a darke colour doth cōgregate, or collect the beames, whereas whitenesse doth disperse them. A second part of their office was to worke reconciliation betweene parties offended, as ap-  
H pea-

<sup>d</sup> Suet. in Iu-  
lio.

\* Vid. sup. p.  
11.

\* Munst. in  
sua cosmog.  
lib. 2. c. 9.

peareth by <sup>d</sup> *Suetonius*: where wee may read that by their intercession *Sylla* was reconciled to *Caesar*. They were chosen into this place betweene the sixth, and the eleaventh yeare of their age: and they were to remaine in this Nun- nery 30. yeares space, 10. yeares to learne their ceremonies and mysteries, 10. yeares to exercise them, & 10. yeares to instruct others: within which space if they had suffered their bodies to be defiled, they were to vndergo that feare- full punishment \* afore mentioned. But these 30. yeares be- ing expired, marriage was lawfull for them, so that they laid aside their scepters, their fillets, and other their sacer- dotall ornaments. Notwithstanding those which did mar- ry in the end dyed fearefull deaths: wherevpon they chose rather to abstaine commonly. The *Romanes* had them in great honor, so that they never walked abroad, but with an yron scepter in their hands, and whatsoever malefactor met the (if the Nun would take her oath it was by chace) he escaped punishment. They were named *Vestals* frō their goddesse *Vesta*, which word (as <sup>c</sup> *Munster* writeth) is deri- ved from the Hebrew *radix* signifying fire. The eldest was called *Maxima Vestalis virgo*. i. the Lady prioress, or chiefe governess.

#### CHAP. 19.

##### *De veterum sacrificiis & ritu sacrificandi.*

**W**Hatsoever was burnt or offered vp vnto the Gods vpon an altar it had the name of a sacrifice: and sometimes it was called *victimā*, quod *vinctā ad aras stabat*, because the beast to bee sacrificed stood bound vnto the altar. Sometimes *Hostia*, from an obsolete verbe *Hostio*, which is to strike: because certaine vnder officers called in Latine *Pope* (standing by the altars, all their vpper part na- ked, and a lawrell garland vpon their head) did *Hostiare victimam*. i. strike downe and kill the sacrifice. Others are of opinion, that this name *Hostia* is taken from *hostis*, an enemy: according to that of *Ovid*. *Hostibus à domitis hostia*

no-

*nomen habet*: because either before warre to procure the Gods favour, or after warre in token of thankfulness, they did *hostiam ferire*. i. offer vp the sacrifice. The second diffe- rence of sacrifices haue beene occasioned in respect of the time, and so they haue beene called *Præcedanea*, or *succida- nea*, quasi *præcedanea* & *succedanea*. Those sacrifices which were offered vp the day before any iolemne sacrifice, were called *Præcedanea hostia*, fore-sacrifices, as wee eng- lish *præcursores*, a forerunner: which fore-sacrifices if by any token they found vnlucky, then would they offer vp a second sacrifice which they tearmed *hostiam succidaneam*. And because these second sacrifices were to be offered on- ly in steed of the other, when they were vnlucky or faulty; hence hath *Plautus* vsed this speech *Meum tergum stulti- tia tua subdes succidaneū*? Must I be whipped for thy fault? The manner of sacrificing was as followeth. Some certaine daies before any sacrifice was to be performed, the priest was wont to wash his whole body, especially his hands & <sup>f</sup> *Vid. Erasmi.* feet, which if he had not washed, the sacrifice was accoun- <sup>Adag.</sup> ted polluted: and alluding vnto this custome we say a man doth *Accedere ad rem illotis manibus*, or *illotis pedibus*, as often as he enterpriseth any businesse without due reve- rence or preparation therevnto.

Μηδὲ πὺλ' ἐξ ἡῶς δι' ἡλείβειν αἰθοπα δῖνον  
χερσὶν ἀνιπτοίσιν. *Hesiod. ἐργ. κ. ἡμερ.*

Moreover the priest was to abstaine from his marriage bed, as likewise from diverse kinds of meats, and at the time of his going to sacrifices, either himselfe, or some inferiour Sexton going before him, with a rod or wand in his hand (called *commentaculum*) & vsed this forme of words vnto the people: *Hoc age*, attend this you are about: which cu- <sup>g</sup> *Plutarch.* stome seemeth to haue had its originall from the *Grecians*. For before the time of sacrifice the Grecian Priest vsed al- most the like speech vnto his people. As *τις τῶδ' ἐ*. i. who is here? the people answered *πολλοὶ καὶ καλοὶ*. i. many men, and good. After this preparation, then did the Priest laying his hand

hand vpon the altar, rehearse certaine praier<sup>h</sup> vnto the God *Ianus* and the Goddesse *Vesta*: because the *Romanes* were perswaded, that without their intercession they might not haue access vnto the other Gods. His prayers being ended then did hee lay vpon the beasts head a little corne together with a cake made of meale and salt, called in Latine *Mola*.<sup>k</sup> *Mola erat far tostum, sale aspersum*. From this ceremonye the act of sacrificing hath been tearmed *Immolatio*. After this the soothsayer dranke wine out of an earthen or woodde chalice called in Latine *Simpulum* or *simpunium*: It was in fashion much like our eywers, whence we powre water into the bason. This chalice afterward was caried about to all the people that they also might *libare*. i. lightly tast thereof<sup>l</sup> which rite hath been called *Libatio*. Now every one having tasted thereof, the rest of the wine with frankincense mixt in it was to be powred vpon the beasts head, m betweene the hornes, one crying out with a lowd voice, *Maesta est hostia*. i. *Magis aueta*, more encreased & made more pleasing vnto the Gods; as *Virgil* saith, *Maeste novâ virtute puer*. i. O good child which encrease in vertue. And hence even from this tearme, wee may coiect, that the word *Maesto*, which signifyeth to kill, & sometimes to sacrifice, hath had its originall, because they did immediatly after that voice, *maestare hostiam*, that is, slay the sacrifice, and that was done in this<sup>n</sup> manner. First the Priest did pluck off some of the beasts haire between the hornes, & cast them into the fire, calling them his *prima libamina*. i. his first offrings. Then did he turning his face toward the East, draw a long crooked knife vpon the beasts back, commanding his vnder officers, which I called *Pope* (others *Cultrarij*, from their knife; *Victimarij*, from the hoast; and *Agones*, because they standing ready to giue the stroak, often vsed this word *Agon*? for *Agone*. i. must I to my work?) to kill the beast. The other people standing by, some did with vessels saue the bloud, others did flea or skinne the beast; others washed it. Anone some soothsayer or Priest did

<sup>h</sup> Serv. Aeneid. lib. 1.

<sup>i</sup> Pancirol. lib. 1. c. 1. de perdit. c. de sale Ammoniac. <sup>k</sup> Textor in sua officina. *Spargi salsa colla taurorum* <sup>m</sup> Oe. <sup>n</sup> Sen. <sup>l</sup> Oe. <sup>o</sup> dip. A. 2. sc. 2. <sup>p</sup> Pancirol. lib. 1. c. 1. de perdit. cap. de Ammoniac. sale.

<sup>m</sup> Media inter cornu fundit. Virg. Aeneid.

<sup>n</sup> Rosin. antiqu. lib. 3. c. 33.

did obserue the intrals, turning and winding them with a knife which was called *Secepsita*, à *secando*: for hee might not touch them with his hand, they conceiting that if the sacrifice had proved polluted, his hand would then haue perished. Now after the soothsayer or priest had sufficiently turned the intrals, and found no ill token therein, then did thole *Pope*, or Church-butchers, cut off from every bowell some portion, which after they had rolled in barley meale, they sent it in baskets to the priest, and the priest taking it vp into a broad charger or platter called *discus*, or *lanx*, laid it vpon the altar and burne it, & this was properly tearmed *litare*, or *Reddere*. i. to satisfie by sacrifice, or merar. pro to pay the sacrifice, which was owen vnto the Gods. After Flacco. that the portion laid out for the Gods, had beene burnt, then did all the people repaire vnto a common feast; where, as they were eating, they sung hymnes, and songs in the praise of their Gods, and playing on cymbals, they danced about the altars; intimating therby, that there was no part of their body, but should bee employed in the service of their Gods. Now vntill all their ceremonies and mysteries were finished, it was not lawful for any to taste of this feast: insomuch that we since haue vsed to checke a glutton, or greedy-gut, which can not abstaine from his meat til grace be said, in this manner, *Sacra hand immolata deuorat*.





Lib. 2. Sect. 3.

Of the Romane yeere.

CHAP. I.

De Anno & partibus eius.



It followeth that now we should descende vnto those several *appendices* vnto religion; namely the *Romane* yeare, their plaies, their māner of feasting, their several kinds of garments, their Nuptials and Funerals. This word *Annus* is so called *quasi Annulus*, because (as the Greeke word *Ενιαυτός* signifieth) *in eavm̄ eis .i. in se convertitur annus*: which was the reason, why the Egyptians in their mysticall cyphers (called *littera hieroglyphica*) did vse the picture of a serpent, having his taile in his mouth to signifie an yeare. The time or space of this yeare hath beene diverse, according to the diversity of nations.

<sup>a</sup> Some allowed no more daies to an yeare, then we doe to a month; and thence they called it *annum lunarem*. <sup>b</sup> Some allowed fowre monthes, some fixe monthes, some ten: And thus *Romulus* measured his yeare, counting that a sufficient time for an yeare, which was sufficiēt for a womā's travel in childbirth: or for an womā to mourne for the death of her husband.

*Quod satis est utero matris dum prodeat infans,  
Hoc anno statuit temporis esse satis.  
Per totidem menses à funere coniugis uxor  
Sustinet in viduâ tristia signa domo.*

Thus

Of the Romane yeare.

Thus *Romulus* his yeare contained of monthes ten; of daies three hundred and fowre. but after this, *Numa*,<sup>c</sup> or as some saie, *Tarquinius Priscus* perceiving that the monthes did not alwaies fall out alike every yeare; but sometimes the same month would happen in the sommer, sometimes in the winter, therevpon after long study and many instructions from the *Grecians* finding the reason of this confusednesse, he added vnto *Romulus* his yeare fifty daies, so that the whole yeare afterward was divided into twelue moneths; because the moone had finished her course 12. times in that space; Beginning their yeare then at Ianuary: because then in his iudgemnt was the fittest time to beginne the yeare, when the sunne being farthest from vs did begin to turne his course, and to come vnto vs againe; which is about Ianuarie, the sun being about the Tropicke of Capricorne. Afterward vpon a superstitious conceite of the odde number, *Numa* added one day more vnto *Ianuary*, so that whereas at the first *Numa* his yeare did agree with the *Grecian* yeare, both of them containing three hundred fifty fowre daies; Now the *Romane* yeare contained three hundred fifty fixe daies, which computation falling out too short for the true yeare by the space of ten daies, and sixe howres yearly, it occasioned every eighth yeare the interposition of three whole months, which they called their leape yeare: <sup>d</sup> This confusednes afterward *Iulius Caesar* by long study remedied, adding the odde ten dayes vnto *Numa Pompilius* his yeare. And least the odd six houres might at last breed disorder in their computation, hee appointed that every fourth yeare a whole day should bee inserted, next after the three and twentieth of Februarie; which inserting they called *Intercalatio* from an old verbe *Intercalo*, and that day they called *Intercalarem*. Now the day following being the foure and twentieth of Februarie, was alwaies the sixt of the Kalends of March, <sup>e</sup> and therefore because of the interposition of that day, they called the leap-yeare *Annum bissextilem*. i. the yeare wherein there

<sup>c</sup> Vid. Geor. Merulam in orat. pro Q. Ligario.

<sup>d</sup> G. Merula in orat. pro Q. Ligario.

<sup>e</sup> G. Merula in orat. pro Q. Ligario.

fal-



† Rosin. Ant  
Rom. lib. 4.

\* Hubert lib.  
3 epist. fam.  
18.

fallen out two dayes which they called *Sext. Calend. Martij*. And the day thus interposed, was called *dies bissextus*. This computation which *Iulius Caesar* found out wee haue embraced, and do at this day follow, calling our yeare *Annum Iulianum*,<sup>†</sup> and *Annum magnum*, having relation to the monthly yeare called *Annus Lunaris*; and sometimes this great yeare is called, *Annus vertens à vertendo*, because it is alwaies turning, and running on.\* Moreover we must remeōber that the Romans did begin their yeare at March; whence that month which since hath beene called *Iulius* in the honour of *Iulius Caesar* was by them called *Quintilis*, because it was the 5 month: and that month which since hath beene called *Augustus*, in the remembrance of *Augustus Caesar* was by them called *Sextilis*, because it was their sixt month. Thus then the great yeare being divided into twelue months, every month was divided into three parts. i. *Calendas*, *Nonas*, and *Idus*. For the better vnderstanding of which, I shall insert three common verses.

*Principium mensis nostri dixere Calendas:*

*Sex Maius Nonas, October, Iulius, & Mars,*

*Quatuor at reliqui: tenet Idus quilibet octo.*

That is the first day of every month is called the Kalends of that month. The 2. 3. 4. 5. 6. and 7 of these foure months, May, October, Iuly, and March, were called the Nones of that month: but in all the other months the Nones contained but the 2. 3. 4. and 5 day, so that the fifth day (for example sake) of Ianuarie was called *Nonæ Ianuaria*, or *Ianuarij*, the fourth *Pridie Nonarum*, or *Nonas Ian.* (For they vsed alwaies to say *Pridie Cal.* *Pridie Nonar.* and *Pridie Iduum*, in steed of *secundo Cal.* *Non. Id.*) The third day of Ianuarie, they called *tertium Nonarum*, vel *Nonas Ianuar.* the second day of Ianuarie they called *quartum Nonarum*, vel *Nonas Ianuar.* After the Nones followed the Ides, which contained eight dayes in every month, so that the 15 day of the foure aforesaid months, were called *Idus Maij*, *Idus Octob.* *Idus Iulij*, and *Idus Martij*. In all the o-

ther

ther months, the 13<sup>th</sup> day was the Ides: as to proceed in Ianuarie, the thirteenth day was called *Idus Ianuar.* the twelfth *Pridie Iduum*, vel *Idus Ianuar.* The eleventh *tertio Iduum*, or *Idus Ian.* the tenth *quarto Iduum*, vel *Idus Ian.* the ninth 5<sup>o</sup> *Id. Ian.* the eighth 6<sup>o</sup> *Id. Ian.* the seaventh 7<sup>o</sup> *Id. Ian.* the sixt 8<sup>o</sup> *Id. Ian.* After the Ides then followed the Kalends of the next month. As the fourteenth of Ianuarie was *decimo nono Calendarum*, or *Calendas Februar.*; the fiftteenth *decimo octavo Calend. Feb.* the sixteenth *decimo septimo Cal. Feb. &c.* Where we must note that as often as we vse *Pridie*, *tertio*, *quarto*, or any of those numerals with an accusatiue case, as *Pridie Calendas*, &c. the *Grammarians* say that this præposition *Ante* is eclipsed. It followeth now that I should treat of the daies, which are the lesser parts of the yeare: where before we proceed wee will consider the parts which the *Romanes* divided their day into.

Dies Civilis continet	Lucē cuius partes sunt	<i>Diluculum</i> . The breake of day.
		<i>Mane</i> . The full morning.
		<i>Ad meridiem</i> . The fore noone.
		<i>Meridies quasi Medidies</i> . Mid-day, or
		<i>quasi Merus dies</i> . Perfect day, Noone.
		<i>De mer die</i> . After noone.
	Noctem cuius partes sunt	<i>Solis occasus</i> . Sun-set.
		<i>Crepusculum</i> . The duske of the evening.
		<i>Prima fax</i> . Candle-tining.
		<i>Vesper</i> . The night.
		<i>Concubium</i> . Bed-time.
		<i>Nox intempesta</i> . The first sleepe.
		<i>Ad mediam noctem</i> . Towards mid-night.
		<i>Media nox</i> . Mid-night.
		<i>De media nocte</i> . A little after mid-night.
		<i>Gallacinium</i> . Cock-crowing.
		<i>Conticinium</i> . All the time from cock-crow-
		ing to the breake of day.

The day and night againe were each of them divided into *primam*, *secundam*, *tertiam*, & *quartam vigiliā*, every watch

containing three houres. The first of the night began at six of the clocke in the evening, and the fourth ended at six of the clocke in the morning. These watches were distinguished by severall notes and sounds of cornets or trumpets, that by the distinction and diversity thereof, it might easily be knowne what watch was sounded. Moreover we must vnderstand that the *Romanes*, vpon a superstitious conceit, and observation of misfortunes and evill events falling out on some daies, and more happy successe vpon others, haue called the former sort of daies *Atros dies*, & the latter sort *Albos dies*,<sup>b</sup> borrowing the names from the *Scythians*, who vsed to chalke out the fortunate daies in their Kalenders with white characters, whence *Horace* saith,

*Cressa non careat pulchra dies nota.*

Other some, as their vnfortunate and vnlucky daies, were noted with a coale or blacke character, according to that,

*Nigro carbone notatue.*

Againe their Kalender distinguished some daies for Holy-daies, which they called *Dies festos*, festivall daies, or *dies Feriatis*, & *Ferias*, Holy-daies, because they did vpon such daies *Ferire victimas*. i. offer vp sacrifices. Others were distinguished for working daies, which they called *Profestas quasi procul a festis*. The third distinction was of halfe-holy-daies, which *ab intercidendo*, they called *Dies intercisos* as it were dayes cut asunder: the one part of them being allotted for worldly businesse, the other for holy and religious exercises.<sup>k</sup> These *feria* were either *privata*, and so they belóged sometime to whole families, as *Familia Claudia*, *Emilia*, *Iulia*, &c. sometimes to private persons, as every one his birth day, particular expiations, &c. or else they were *Publica*, such as the whole commonwealth did obserue: and they were of two sorts, the one called *Anniversaria*, which were alwaies to be kept on a certaine day, and therevpon they were called *feria statina*; the other *conceptiva* which were arbitrarie, and solemnised vpo such daies as the magistrates and priests thought most expedient

<sup>s</sup> Alex. Gen. lib. 1. cap. 12.

<sup>h</sup> Vid. Erasmi Adag. vñ one signare.

<sup>i</sup> Ascensius in epist. 3. illust. vir, lib. 2.

<sup>k</sup> Rosin. antiq. lib. 4. c. 3.

<sup>l</sup> Alex. Gen. dier. lib. 5. c. 7.

ent, whereof the *Latina Feria* were chiefe: which *Latina Feria* were kept on moût *Albane* to *Iupiter Latiar*, for the preservation of all the Latine people in league & confederacy with the *Romanes*, and were solemnised in memorie of the truce between those two nations. Those *feria* which were called <sup>m</sup> *Imperatina* & <sup>n</sup> *Indictina*, because the *Consul*, *Prator*, or chiefe Pontife, according to their pleasure *imperabant*, & *indicebant* has. i. commanded them, may in my opinion be contained vnder that member of *Feria conceptiva*, in respect of the vncertaintie of them. Another distinction of daies is found in the Roman Kalender, to haue beene in *Fastos*, whole court or leet-daies; *Ex parte Fastos*, Halfe court dayes; *Nefastos*, Non-leet daies: though this word *Nefastus* be often expounded vnlucky, as in that of <sup>o</sup> *Horace* touching the tree, *Ille & nefasto te posuit die*. i. He plâted thee in an vnhappy time. These daies were so called <sup>p</sup> *afando*, frô speaking; because vpon those daies which were *Fasti*, the *Prator*, or *L.* chiefe Iustice might lawfully keepe court and administer iustice, which was not done without the speaking of these three words, *Do*, *Dico*, and *Addico*; <sup>p</sup> *Dabat actionē*; *dicebat ius*; *Addicebat tã res, quã homines*. Where by the way wee must note, that sometimes these court daies were also called *dies comitiales*, because that <sup>q</sup> vpon every such day as the *comitia*. i. the publike assemblies were held, it was lawfull to keepe court: whence not only *comitalis dies* doth signifie a law day, but *comitalis homo* also doth signifie a wrangler in the law, or a litigious person.

## CHAP. 2.

### De Ludis.

THIS word *Ludus* hath diverse acceptions, sometimes it is takē for a iest or scoffe, as *ut me ludos facit*? How he scoffeth me? Sometimes for a place of exercise where any feate is learned, as *ludus literarius*, a schoole for learning; *ludus gladiatorius* a fence-schoole; and *Aperire*

<sup>m</sup> Alex. Gen. dier. lib. 5. c. 7.  
<sup>n</sup> Serv. Ænei. lib. 1.

<sup>o</sup> Carminum lib. 2. Ode. 13

<sup>p</sup> Ioach. Camerar. pro Flacco.

<sup>q</sup> Bersman. in suis annot. in Rom Calend ad finem Or. Fast.

*ludum*, to set vp a schoole. Sometimes for any game, pastime, or sport publicly exhibited, either that thereby the Gods might bee appeased, or the appiause and fauour of the people gained. These games from the diversity of the place where they were had, may be divided into *ludos compitales, circenses, & scenicos*. *Compitales* were such as<sup>r</sup> vsually were solēzied in *compitis*. i. in the crosse-waies and open streetes. *Circenses* were circque-shewes, taking their appellatiō either frō the great circque, or shewplace, called *Circus Max*: where the games were exhibited; or from the swords wherewith the players were invironed, as one would say *Circaenses*. They much resembled those *Grecian* games, called *certamina Olympica*, where the rñners with chariots were hemmed in on the one side with the running river, and on the other with swords pitched point-wise, that they should hold on the race directly, and not swarue aside without danger.<sup>f</sup> Some haue thought thē to be the same with *ludi Gymnici*; so called from γυμνός, naked; because that those which did performe these kinde of exercises did either put off all, or the greatest part of their clothes, to the intent that they might the more readily and nimbly performe their games; for which purpose they did also annoint their bodies with oile.<sup>r</sup> Whenee we say when a man hath lost his cost, and labour, *Operam & oleum perdidit*; *oleum* in this place signifying cost & charges: so that the proverb was the same with that of<sup>u</sup> the coblers crow, *opera & impensa periit*. The games and Masteries vsed in the circque were diuerse; namely fitty-cusses, fencing with swords, shaking the speare, dauncing in plaine ground, leaping, iumping, casting the dart, wrestling, running the race with chariots, which was called *certamen bigarum vel quadrigarum*; playing at whorle-bats, which was tearmed *bellare cæstu*; casting or hurling the great stone called *discus*; though sometimes this *discus* was made of yron or brasse: The players thereat were called *δισκοβόλοι* from *δίσκος* and *βάλλω*, to dart or cast out any thing. The third sort of plaies

were

were *ludi Scenici*, stage-plaies. The reason of this name *scenica* may be seene<sup>\*</sup> before.<sup>\*</sup> The first institution of them was occasioned by reaso<sup>n</sup> of a great sicknes, which by no medicinaly help could be removed; The *Romanes* superstitiously conceiting, that some new games or sports being found out the wrath of the Gods woulde thereby bee vnarmed. Wherevpon about the fowre hundreth yeare after the building of *Rome* they sent for certaine stage-players out of *Hetruria*, which they called *Histriones* frō the *Hetruriā* word *Hister*, which signified such a player. Concerning the diuerse kinde of stage-plaies I read of fowre, called by the *Grecians*, *Mimica*, *Satyræ*, *Tragœdia*, *Comœdia*: by the *Romanes* *Planipedes*, *Attellana*, *Prætextata*, *Tabernaria*. In English, *Fables* *Mimicall*, *Satyricall*, *Tragicall*, *Comicall*. These Mimicall players did much resemble the clowne in many of our English stage-plaies, who sometimes would go a tip-toe in derision of the mincing dames; sometimes would speak ful-mouthed to mocke the country-clownes; sometimes vpon the top of their tongue to scoffe the citizen. And thus, by their imitation of all ridiculous gestures or speeches, in al kinde of vocations, they provoked laughter; whence both the plaies and plaiers were named *Mimi*, from *μῖμος* an Imitator, or one that doth apelikey counterfet others: as likewise they were called *Planipedes*, because the Actors did enter vpon the stage *planis pedibus*. i. *Excalceati* barefooted. The second sort of plaies were called *Satyræ*,<sup>a</sup> frō the lasciuious and wanton country-Gods called *Satyræ*, because the Actors in these *Satyricall* playes, did vse many obscene poems, and vnchast gestures to delight their spectators. Afterwarde these kinde of actors as wee may coniect, did assume such liberty vnto themselves, that they did freely and without controlement, sharply taxe & censure the vices even of kings, as wel as of the commons, in so much that now wee call every wirty poeme, wherein the liues and manners of men are sharply taxed, A *Satyræ*, *Κομωδία* or *Satyricall poeme*.<sup>b</sup> *Satyræ mordax fuit & salsum genus σατυρικοί*.

<sup>\*</sup> Vid. pag. 14<sup>\*</sup> Lælius de Repub. Rom. lib. 10. cap. 11<sup>r</sup> Alex. Gen. dier. 1. 6. c. 19.<sup>r</sup> Alex. ib<sup>a</sup> Antesignan in suis obser. de metris comicis. Teren. præfixis.<sup>b</sup> Vid. Erasim. adag.<sup>r</sup> Alex. Gen. dier. lib. 6. c. 19<sup>f</sup> Rosin. Ant. lib. 5. cap. 5.<sup>r</sup> Vid. Erasim. adag. operam & oleum perdere.<sup>u</sup> Macrobi. lib. Satur.

*carminis*. These satyricall plaies were also called *Attellana*, from the city *Atella* in *Campania*, where they were often acted. The third sort of stage-plaies, were called *Tragœdia*, from *τράγος* a goat, and *ὕμν* an ode or song; because the actors thereof had a goat given them as a reward. And likewise they were called *Prætextata*, frō *Prætexta*, a certaine *Romane* robe, which these actors did vse to weare in their plaies. The fourth sort were *comœdia*, frō *κῶμαι*, which signifieth villages, and *ᾠδή*: because these kinde of actors did go vp and downe the country acting these *Comedies* in the villages as they passed along. They were likewise called *Tabernaria à tabulis*. i. from the boards or pentices where-with they were sheltered frō the weather, whiles they were acting. These two last sorts of plaies, namely *Tragedies* & *Comedies* being still in vse amongst vs, it will be worth our labour to consider the communities, wherein they agree; & likewise the proprieties or notes of distinction by which they differ. I finde three sorts of parts, wherein they agree, namely *partes primaria, accessoria, circumstantes*; parts principal, accessory, and circumstances, which are not so truly parts, as accidental ornamēts added to beautifie the plaies. The principal parts are 4. in respect of the matter treated of. For as farre as the declaration or exposition of the matter in hand reacheth, without intimation of the event to ensue, so farre reacheth the first part called *πρόσῳδος*, which word signifieth no more then a proposition or declaration. But when the play inclineth to its heate & trouble, the ensueth the second part called *ἔκστασις*, which signifieth the intension or exaggeration of matters. The third part is called *ῥήσις*. i. the state and full vigour of the play. The last part which is an vnexpected change into a suddaine tranquillity and quietnesse is called *ῥυτίσις*: whence by a metaphor it hath beene translated to signifie the end, or period of any other thing; or rather the inclination vnto the end, as *vita humana catastrophe*, the end of a mans life. In respect of the players forsaking the stage, the parts were

five

five; namely the five Acts. For the Actors did five times in every *Comedie* and *Tragedie* forsake the stage, and make as it weare so many interruptions. The occasion whereof is supposed to haue been this, That the spectators might not be wearied out with a continued discourse or action, but that they might sometimes be delighted with variety intermixed. For those breaches and chasmes betweene each act, were made vp and supplied, either by the *Chorus*, or *Musicke*. Where we must note, that every *Tragedy* and *Comedie* must haue five *Actus*, and no more, according to that of *Horace*.

*Neue minor quinto, neu sit productior actus*

*Fabula. ---*

Again we must remember that it is not necessary that the *πρόσῳδος* should alwaies be contained in the first Act, though many times it happeneth so: for in *Plautus* his bragging souldier the *Protagis* is found in the second Act: and so likewise haue the other three parts. i. *Epitasis*, *Catastasis* & *Catastrophe* their bounds vnbounded. These Acts are divided into severall scenes, which sometimes fall out more, sometimes fewer in every Act. The definition of a scene being *• Mutatio personarum*: Whence we call a subtile *Gnatho*, • Vid *Erasmi*, which can humor himselfe for all persons and times *omniū* Adag. *scenarum hominem*, A man fit for all parts. Now amongst the *Romans* it was thought unfit, that about three persons should come on the stage in one scene.

*Nec quarta loqui persona laboret. Hor.*

The *partes accessoria* in a *Comedy* are foure, *Argumentum*, *Prologus*, *Chorus*, & *Mimus*. The first is the matter or subject of the *Comedy*: the second is the Prologue, which is either *ὑπόμνησις*, such as doth open the state of the fable, at which time there needeth no argument; or else *συγχαίρις*, such as commendeth the fable, or the Poet vnto the people; or lastly *ἀναφορὰς*, such as shall refute the obiections and cavils of adversaries. The third is *Chorus*, which speaketh betweene each Act; and this *Chorus* may consist either of one

<sup>d</sup> Rolin. ant. one, or many speakers, & that either male or female: <sup>d</sup> but with this caution, that if a male be to be commended, then must the *Chorus* consist of males; if a female be to be commended, then must it consist of females. And alwaies whatsoever the *Chorus* speaketh, it must be pertinent vnto the Act past, or covertly intimating somewhat ensuing.

--- *Non quid medios intercinat actus,*

*Quod non proposito conducat & bareat aptè.* Horat.

The fourth and last accessory part, was *Mimus* the clowne or foole of the play. Of all these parts a tragedy hath onely a *Chorus*. The *partes circumstantes*, or accidentall ornaments were foure, common to both, *Titulus*, *Cantus*, *Salutatio*, *Apparatus*. i. the title of the play, Musicke, Dauncing, and the beautifying of the scene. By the Scene in this place, I vnderstand the partition betweene the players vestry, and the stage or scaffold. This partition at the acting of a Tragedy was vnderpropped with stately columnes & pillars, and beautified with paintings resembling princely buildings, and the images as well of Gods as Kings. At the acting of a Comedy country-cottages and private buildings were painted in the out face of the partition. In the *Satyricall* plaies the painting was overcast with shadowes of mountaines and woods: The first of these partitions they called *Scenam Tragicam*, the second *Comicam*, the third *Satyricam*. The differences betweene a Tragedy & a Comedy which may be collected out of <sup>f</sup> *Antesignanus* are these: first in respect of the matter, because a Tragedy treateth of exilements, murders, matters of griefe, &c. a Comedy of loue toyces, merry fictions, and petty matters, the one being *σενάρ μέλοχ*; the other *κίχης μέλοχ*. In a Tragedy the greatest part of the Actors are Kings and Noble persons; in a Comedy private persons of meaner state and condition. The subject of a Comedy is often feigned, but of a Tragedy it is commonly true, and once really performed. The beginning of a tragedy is calme and quiet, the ende fearefull and turbulent; but in a comedy contrarily the be-

<sup>e</sup> Alex. Gen. dier. l. 5. c. 16.

<sup>f</sup> Antefig. in suis obliu. de metris comicis Teren. præfixis.

ginning is turbulent, and the end calme. Another difference which *Antesignanus* hath omitted is behouefull for vs to knowe, namely that the Tragedians did weare vpon the stage a certaine shooe comming halfe way vp the legge in manner of buskins, which kind of shooe was called by the *Cothurnus*, and from that custome it hath beene occasioned, that *Cothurnus* is translated to signifie a Tragicall and loftie stile; as *Sophocleo digna Cothurno*, matters becomming *Sophocles* his stile: & sometimes a tragedy it selfe. The Comediāns did vse an high shooe coming vp about the ankle, much like a kind of shooes which plough-mē vse to weare to keepe themselues out of the dirt. This kinde of shooe is called *Soccus*, by which word sometimes also is signified a Comedy, as

*Hunc socci cepere pedem, grandæq; Cothurni.* Horat.

<sup>g</sup> All these sorts of stage plaies both *Mimicall*, *Satyricall*, & *Antefig. ib.* *Tragicall*, and *Comicall*, if they were acted according to the Grecian rite and custome, then were they called *Palliata*, from *pallium*, a certaine mantle which the Grecians did vse to weare: if according to the Romane manner, then were they called from the Romane gowne *Togata*. Another division of playes hath beene taken not from the place where they were exhibited, but from the final cause or reason why. Some were celebrated in the honour of the Gods, & they were named *Ludi sacri*; others for the performace of some vow, being called therefore *Ludi votini*; others for the more solemne celebration of funerals, whence they were called *Ludi funebres*; lastly others for sport and exercise called therefore *Ludi ludicri*. Vnto those sacred or holy playes belonged these; *Ludi Megalenses*, otherwise called *Megalesia*, which were sports solemnized in the honour of *Cybele*; *Cereales*, sports in the honour of *Ceres*; *Florales*, in the honour of the goddesse *Flora*; *Martiales* in the honour of *Mars*; *Apollinæes* in the honour of *Apollo*, &c. The *votini ludi* were also performed in the honour of some God, but they were distinguished from *ludi sacri*, because these

<sup>h</sup> Ascensius  
epist. viror.  
illust. lib. 5.

these *votivi* were performed only vpon occasion of some speciall vow made: for whensoever the *Romans* did vnder- take any desperate warre, then did some *Roman* magistrate *Vovere ludos vel templa*, conditionally, that they got the conquest.<sup>h</sup> Whiles the magistrate vttered this his vow, he was said *Vota nuncupare* or *facere vota* .i. to make a so- lemne vow vnto the Gods; The vow being thus made, hee was said to be *votivus*.i. conditionally bound & obliged to the performance of this vow, so that the Gods might challenge the thing vowed as due debt, if they granted his request. But the request being granted, then was hee said *damnatus voti, vel voto*.i. simply bound to the performance of it; so that by a consequence *Damnari voti vel voto*, is to haue ones desire accomplished. The third sort of plaies, which wee called *ludos funebres*, was fencing and playing of prizes, the custome among the *Romanes* being<sup>i</sup>, that at the funerals of their friends, they would procure certaine slaues and captiues to ioyne combat vpon the *Amphitheatre*, vntil one of them had beene killed; whence those fen- cers were called *Bustuarij*, from *bustum*, the place where dead mens bodies were burned. They first began their fight with certaine cudgels, or yarges called *Rudes*, & after

<sup>i</sup> Saturn. ser-  
mon, l. 2. c. 19.

ward went to naked weapons (& that was termed *dimica- re & versis armis pugnare*, this word *versis* signifying *muta- tis* according to <sup>i</sup> *Lipsum*) whereat they fought till one was killed; neither was the other so acquitted, but he stood lia- ble to vndertake another, & so a third, vntil he had foyled fix or seaven combatants: and if his hap were to prevaile so often, then did he receaue a garland or coronet of palme tree, wound about with certaine woollen ribbands called *Lemnisci*.<sup>k</sup> The coronet it selfe was called therefore *palma lemniscata*: and hence figuratiuely hath *palma* beene tran- slated to signifie the victory it selfe; and <sup>l</sup> such a mā as hath often gotten the prize, we say proverbially, that he is *Plu- rimarum palmarum homo*. The reason why the palme tree rather then any other tree should bee given in token of

vi-

victory is rendred by <sup>m</sup> divers good authors to bee this; because the palme tree, though you put never so ponde- rous and heavy weight vpon it, yet it will not yeeld, but <sup>m</sup> Arist prob. 7. Plut. symp. 8 q 4. A. Gell. rather indeavour the more vpward. After hee had foyled six or seaven, hee receaved one of those staues or cudgels also, wherewith they began their combat, in token of libertie; signifying thereby, that hee should hence for-ward lead his life free frō shedding of blood. Alluding vnto which custome this word <sup>n</sup> *Rudis* hath beene vsed to signifie any other kind of freedome, or discharge, wherevpon *Horace* said of himselfe, that he was *Rude donatus* .i. set at libertie, and discharged from his paines in poetry. The last sort of plaies called *Ludi ludicri*, were either military to traine vp young men in the knowledg of the art military, and those were called *ludi castrenses*: or else they were only for exer- cise, namely rūning the race, iusting, or turnamēts, which were called sometimes *Troianus ludus*, sometimes <sup>o</sup> *Troia* without any other word added therevnto, <sup>p</sup> because *As- canius Aeneas* his sonne first brought them out of *Troy* in- to *Italy*. <sup>o</sup> Suet in Ju- lio. C. 21. c. 39. <sup>p</sup> Rosin. Ant. lib. 5. cap. 29.

## CHAP. 3.

*De mensis & convivij Romanorum.*

**B**Efore we proceed vnto the description of the *Romane* tables, and manner of their feasting, we will explaine those five tearmes *Ientaculum*, *Prandium*, *Merenda*, *Cœna*, & *Comessatio*: which five words doe signifie the five severall feedings each day, which childrē, old men, servāts, travellers & such like did vsually obserue. *Ientaculum* sig- nified their break-fast, and it had its name like as our Eng- lish word hath a *Ieiunio* from fasting. In former times it was called <sup>q</sup> *Silatum* from *Sile*, with the root whereof they were wont to season that wine, which they had at break- fast. For (as <sup>r</sup> *Plutarch* saith) their breakfast was nothing but a sop dipped in wine. In the same place hee likewise saith, that in old time they had no dinner, but that which

<sup>q</sup> Rosin. An-  
tiqu. l. 5. cap. 27

<sup>r</sup> Plutarch. in  
symp. l. 8. q 6.



we call *prandium*, was the same with them as *ientaculum*; & thus much the Greek word *ἀριστον* signifying a dinner doth intimate. For it is so said *quasi ἀριστον* from *ἀριστος*, which *Plutarch* interpreteth the morning. And therefore, when through *Epicurisme* this dinner time called *prandium* crept in as a distinct meale, it was called *πρὸ ἀριστίας* from *ἀριστία*, which signifieth incontinent, or one which cannot temperate himselfe.<sup>f</sup> The name *prandium* is said *quasi πρὸ ἡμερας* signifying noone-tide. The third time of taking meat, was called *Merenda*, because it was takē *post meridiem*; we may english it our afternoones boever; it was called also *Antecœnium*, because it was taken a little before supper. <sup>†</sup> *Merenda est cibus qui declinante die sumitur, quasi post meridiem edendus, & proxime cœna; unde & Antecœnium à quibusdā dicitur*. The fourth time was their supper called *cœna*, *quasi κοινὴ*, which signifieth as much as common.<sup>u</sup> *Quia antiquitus seorsim solebant prandere Romani; cœnare cum amicis*. Their fift & last time of feeding, was called in latin *comissatio* by some, by most <sup>\*</sup> *comessatio à comedendo*. <sup>y</sup> *Ioannes Tislinus* saith that it is a boever takē after supper, or a night drinking. But the chiefe feast whereat <sup>z</sup> they gaue entertainment being their supper, we will consider these three things therein. First *Accumbendi vel discumbēdi rationem*. i. the manner of their lying at supper (for they sate not at table as we do.) Secondly, the forme & fashiō of their table; and lastly the parts of their supper. The place where they supped was commonly called *cœnaculum à cœna*, as our dining-chamber is so called from our dinner. It was also called *Tricliniū* or *Biclinium* from *κλιν* a bed: for sometimes there were three beds, sometimes but two about the table, vpon which the guests did sit, or rather ly along. In this dining parlour was placed a table, sometimes made quite round; and for the common sort of people it was made of ordinary wood, standing vpon three feet; but for men of better fashion, it was made of better timber, inlaid sometimes with wood of divers colours, sometimes with silver, and

<sup>f</sup> Plutarch. in  
symp. l. 8. q. 6.

<sup>†</sup> Iust. Lips. ep.  
cent. 1. ep. 65.

<sup>u</sup> Plutarch. in  
symp. ib.

<sup>\*</sup> Lævinus  
Torrentin  
Suet. Vitell.  
vid. Rosin. an.  
tiq. l. 5. c. 27.  
<sup>y</sup> In orat. pro  
M. Cælio.  
<sup>z</sup> Lælius de  
Repub. Rom.  
lib. 3. cap. 3.

and it stood vpon one whole entire foote made of yvory in the forme of a great Lyon or Leopard, &c. sometimes this table was made in the forme of an halfe moone, the one part of it being cut in with an arch or semicircle, and then it was called *Sigma*, because it did much resemble the letter *Sigma*,<sup>a</sup> which (as it appeareth by certaine marble monuments)<sup>a</sup> was in old time made like a *Romane C*. If any mā should demand the reason why they cut their table in that forme, I must confesse that I haue not read any reason in any autor: but my coniecture is this. It is agreed vpon by all autors, that in the round tables the one quarter was reserved void frō guests, that the waiters might haue a cōvenient roomth to attend. Therevpon it seemeth not vnprobable to me, that this crooked arch was made for the waiters. I acknowledge that this *Sigma* hath beene translated diversly by diverse writers, as it appeareth by <sup>b</sup> *Lipsius*. By <sup>b</sup> *Iust. Lips.* some it hath beene taken for the parlour or supping chamber; (*Lipsius* in his *Antiquities*) by others for the supper, or feast it selfe; so *Cælius* thought. By *Lipsius* since it hath bin thought a certaine place erected in manner of an hemicycle, or halfe-moone, against which they did place their beds: but *Brodaus* & *Ditmarus* (in my opiniō) haue more truly taken it for the table it selfe. About the table that was perfectly round were placed three beds, covered with tapestry or some other kinde of covering, according to the wealth and ability of the person: and thus *strato discumbitur ostro*, the beds being ready furnished the guests lay downe on them in manner as followeth. Each bed contained three persons, sometimes fowre, seldome or never more, except at their great feasts. Many times it fell out, that each guest had his bed to himselfe, whence <sup>c</sup> *A. Gellius* <sup>c</sup> *A. Gel. 10. 4.* saith, that the nūber of guests shoulde begin with the *Græci*, and end with the *Mæs*. i. they must not be fewer then three, nor more then nine. This also hath beene the reason of that Adage.<sup>d</sup> *Septem convivium, novem convitium faciunt*. If one onely lay vpon the bed, then he rested the vpper part

<sup>a</sup> Iust. Lips.  
cent. 1. ep. 65.

<sup>b</sup> Iust. Lips. ib.

<sup>c</sup> A. Gel. 10. 4.  
Attic lib. 13.

<sup>d</sup> Alex. Gen.  
dier. l. 5. c. 21.

part of his body on his left elbow, the lower part lying at length vpon the bed: but if many lay vpon one bed, then the vppermost did lie at the beds head, laying his feet behinde the second his backe: the second rested his head in the others bosome, having a cushion put betweene, laying his feete behinde the thirde his back; in like maner the third & fourth did lie. They divided their supper into three partes; which they called their first, second, and third messe. In the first messe commonly was served mulberries, lettices, sauesages, and alwaies egges; as likewise in the last messe were served, nuts, figs, grapes, but alwaies apples: whence wee say proverbially *ab ovo ad mala*, from the beginning of the feast to the end, or simply from the beginning of any thing vnto the end thereof. The middle messe was the maine supper, and the chiefe dish thereof was called *caput cœne*.

°Panciroli. li.  
rerum deper-  
dit cap. de  
cibi capiendi  
modo.

## CHAP. 4.

## De Romanis vestibus.

WE may obserue in reading old autors, that as well the *Romanes* as the *Grecians* had diuerse distinct habits, or outward vestiments. The *Grecians* had their *Mantile* called *Pallium*; the *Romanes* their gowne called *Toga*, and by this different kinde of garment the one was so certainly distinguished from the other, that this word *Togatus* was often vsed to signifie a *Romane*, and *Palliatu* a *Grecian*. *Togati pro Romanis dicti, vt Palliati pro Grecis*. Before we proceede, we will first obserue what this *Toga* was, & then how many sorts there were. *Toga à tegendo dicta est*. It was made commonly of wooll but according to the worth and dignity of the person, sometimes of courser, sometimes of finer wooll. As we may collect by that of *Horace*,

---Mibi sit toga, qua defendere figus

Quamvis crassa queat---

h We must note with *Toxita*, that no women of any credit did weare the *Romane* gowne, but instead thereof did vse

h Mic. Toxita  
ib.

## Divers kinds of the Romane garments.

a garment called *stola* from *stello* signifying *demitto*, quid vsq; ad talos dmitteretur: whence old Poets, when they would point out vnto vs an infamous or lewde strumpet, they would tearme her *Mulierem togatam*. <sup>k</sup> This *toga* <sup>i</sup> Rosin. ant. sometimes was worne open and vntuckt; then was it called <sup>Rom.</sup> *Toga aperta*: other times it was tuckt vp, & then it was called <sup>k</sup> Sig. de iud. lib. 3. cap. 19. *toga pracincta*. This cincture or girding vp of the gown was according to <sup>i</sup> Sigonius threefold; *Cinctura laxior*, *A-* <sup>i</sup> Sig. ibid. *strictior*, and *Cinctus Gabinus*. *Cinctura laxior* or the loose kinde of girding was such, that notwithstanding the tuck, yet the taile trailed vpon the ground. *Cinctura astrictior* the close kinde of girding was such, that after the gowne had beene lapped or tucked vp, it should not reach so farre as the feet. The first kinde of these cinctures did argue a remisse soft and effeminate minde; the latter did signifie the promptnesse or readinesse of the person; <sup>m</sup> *Vnde*, <sup>m</sup> Sig. ibid. *Alti pracincti pro expeditis dicti sunt*. Thirdly, *Cinctus Gabinus* was a warlike kind of girding, not so that the whole gown should be tucked vp about the midle, but that it being cast quite backward, the party should gird himselfe with one skirt thereof. <sup>n</sup> This kind of girding was so called <sup>Serv. Ænci. lib. 7.</sup> from a certaine citie of *Campania* called *Gabij*, because vpon a time the inhabitants of this citie being at sacrifice, were set vpon by their enemies; at which time they casting their gownes behind them and girding one lappet or skirt about them, went immediatly to warre, even from the altars, and got the conquest. <sup>o</sup> In memory of which ever after, the *Consul* when hee would proclaime warre girded himselfe in like manner. Neither had the *Consul* alone a peculiar garment when he proclaimed warre, but every souldier in time of warre did weare a different kind of garment from the gown, which they called *Sagum*: we may english it a souldiers coat. Whence *Tully* vseth this phrase *ad sagaire*, which *Erasmus* hath paralleld with this, *Ad certamen accingere*, to buckle for warre. In somuch that *Cedant sagatoga*, is aquivalent to that of the Orators, *Cedant arma*  
toga.

f Sigon. de  
iudic. lib. 3.  
cap. 19.  
g Mic. Toxita  
in orat. Phil-  
ippic. 2 am.

o Alex. Gen.  
dier. l. i. c. 14.



*toga*. Touching the difference of the *Romane* gownes I finde them distinguished by *P. Sigonius* accordingly as followeth; in *Togam Puram, Candidam, Pullam, Prætextam, Paludamentum, Pictam, Trabeam*. *Toga pura* was the common ordinary gown worne by private men at mans estate, not by women at al, nor children, vntill the sixteenth yeare of their age, at which time they were said *Excedere ætate*. i. to be past striplings. Notwithstanding the sixteenth yeare was not alwaies strictly without exception observed; for *M. Aurelius* was permitted to weare this gowne being but fiftene yeares old; and *Caligula* did not weare, it till the nineteenth yeare of his age. This kinde of gowne besides that it was called *Pura*, it was also sometimes called *virilis*, sometimes *libera*. It was called *pura* in respect of its pure white colour, being free from all admixtures of purple or any other colour, & therefore some haue tearmed it *ἀσπρόχρουν*, al white, others *ἀσπρόχρουν*, void of purple. It was called *virilis*, because it was given to striplings now growing to mans estate. Whence wee vse to say of a stripling past 16 yeares of his age, *virilem togam sumpsit*, he is now become a man. Lastly, it was called *libera*, because then they did receaue some beginning of freedome, as being about that time freed from their school-masters, and overseers. This kinde of gowne was not made open but sowed downe to the bottome, and also it was made without sleeues, so that if at any time they had occasion to vse their armes, they would take vp their gowne and cast it quite behind them, or vpon their shoulders. But these striplings could not for one whole yeares space, cast back their gownes in that manner for the liberty of their armes without the imputation of immodesty, as it appeareth by *Cicero*, *Nobis annus erat vnus ad cohibendum brachium togâ constitutus*. The like liberty it seemeth was denied those that stood for places of office; & thence is it, that *Horace* wisheth such to hire them a servant --- *Launum*

*Qui fodiat latus, & cogat trans pondera dextram Porrigere---*

In

In which place, by *pondera* is vnderstood the *Romane* gowne, as *Sigonius* hath expounded that place. Now for the vnderstanding of *Toga candida*, we are to learne a difference betweene this *candida toga*, & the *toga pura* aboue spoken of, which is often times called *toga alba*, both of which were white, but differed in the degree of whitenesse. The *toga alba* had only the naturall whitenesse of the wool; the *toga candida* had an artificiall white die: whereby the glasse of the white was made more orient and intense. Or else as *Sigonius* hath obserued out of *Isidorus*, *Intendenda albedinis causa cretam addiderant*. i. they chalked it to encrease the whitenesse thereof. Whence *Polibius* calleth it *togam λαμπράν*, that is, shining or splendid. Moreover whereas the *alba toga* was the ordinary *Romane* gowne which commonly the *Romane* citizens did weare; this *candida toga* was only worne by those, which did *ambire magistratum*, sue for a magistracy or place of office who during the time of their sute were called from their gowne *candidati*: and *Quintilian* borrowing his metaphor from them, hath called a young student *eloquentie candidatum*. The third sort of gowne which I tearmed *togam pullam*, was a blacke gowne, and thereof was two severall kinds; the one cole-blacke, which was worne *luctus causa*, in token of mourning, and the mourners were thence called *Atrati*, and as often as they did weare this gowne, they were said *Mutare vestem*, which phrase in old autors doth signify nothing else, but to goe in mourning apparell: The other not cole-blacke, but only fouled or stained, and that was worne *reatus causa*, in times of arraignment, & those that wore it were called *sordidati*, *à sordibus in veste*, from the spots or stains in the gowne. Where wee must note, that in proceffe of time *Toga pulla* became the ordinarie gowne which the common people did weare; at which time the ordinary gown, which the citizes of better place and esteeme did weare, was the *toga candida*: wherevpon there did then grow a distinction of the citizens vnkown

L

to

to the former age, saith *Rosinus*, namely that some were tearmed *candidati*, others *pullati*. *Candidati* were those, not which became suiters for places of office (as in old time it signified) but those which did live in better repute then others, from whence it is, that <sup>a</sup> hee whose office was to read the Emperours letters in the Senate was called *Candidatus principis*, or *Questor candidatus*. It did somewhat resemble the office of our King his Maiesties chiefe Secretary. *Pullati* were those of the commonalty or inferiour sort. The fourth sort of gowne was the *toga prae-texta*, so called, *quia ei purpura prae-texta erat*, because it was garded about with purple silke. This kinde of gowne at the first was vsed only by the Romane priests, and chiefe magistrates: Neither was it lawfull for such as did weare that gown to be arraigned, or sentence to be giuen on them vntill that gowne was put off. In continuance of time this *toga prae-texta* was permitted first to Noble mens children; afterward to all Romane children in generall: where vpon <sup>b</sup> *Togatus à prae-textato differt, ut privatus à magistratu & vir à puero*, and *atas prae-textata*, is taken for childhood; and *prae-textati* sometimes for magistrates, but commonly for young children. The fifth sort of gowne was called *Paludamentum*; It was a military garment, which <sup>c</sup> none but the L. Generall or the chiefe captaires did vse to weare. <sup>d</sup> *Isidorus* saith it was not only garded with purple, but with skarlet, and gold lace, whence it was sometimes called <sup>e</sup> *toga purpurea*, somtimes *coccinea*. It was much like the habit which the Grecian Emperour was wont to weare called *Chlamis*; yea now it is <sup>f</sup> called *Chlamis*; wee may english it an *Heralds* coate of Armes. The sixt sort of gowne was called *toga picta*, & because in it were embroadered goodly pictures with needle worke: it was also called *Purpurea*, not because of any purple gard (in which respect the *prae-texta*, and the *paludamentum* were called *purpurea*) but because it was all over with a purple die. It was by some tearmed *toga palmata*, because in it many palme branches being the reward and token of

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<sup>a</sup> Fenestella  
de mag. Rom.  
cap 3.

<sup>b</sup> Per. Pellita-  
rius in orat.  
pro A. Cæcin

<sup>c</sup> Alex. Gen.  
dier. l. 5. c. 18.

<sup>d</sup> Sig. de iud.  
lib. 3. c. 29.

<sup>e</sup> Sigon. ib.

<sup>f</sup> Rosin. an-  
tiq. li. 5. c. 31.

<sup>g</sup> Sig. de iud  
lib. 3. c. 19.

victory were wrought; whence by others it was called *roga triumphalis*, because Emperours in their triumphes did weare such gownes. The last sort of gowne was *Trabea*, whereof there were <sup>h</sup> three severall kinds; the one woven <sup>h</sup> *Serv. Ænci.* all of purple, which was consecrated vnto the Gods; the *lib 7.* second was purple woven vpon white, and this only kings & *Consuls* might weare; the third was skarlet woven vpon purple, and this the *Augures* only did weare. <sup>i</sup> This last <sup>i</sup> *Alex. Gen.* sort was therefore called *trabea auguralis*, the second *tra-* *dier. li. 5. c. 18.* *bea regia*, the first *trabea consecrata*.

## CHAP. 5.

## De Tunica.

**T**Hose coats which were worne vnder the gown were called *Tunica*; and that they were worne vnder the gowne it appeareth by that Adage, *Tunica palli prior est*. i. every one for himselfe first; or according to our english proverbe, Close sitteth my shirt, but closer sitteth my skinne. <sup>k</sup> This *tunica* was both narrower and shorter then <sup>k</sup> *Sig. de iud.* the gowne: at first it was made without sleeues, afterward *lib. 3. c. 20.* with sleeues, and by it, as well as by the gowne were the citizens distinguished. The first sort of coats was made of white cloath commonly, <sup>l</sup> but purfled over and embroa- <sup>l</sup> *Salmuth in* dred with studs of purple in manner of broad nayle heads; *Panciroli. lib.* whence it was called *Laticlavia*, or *Latus clavus*; and the *rerum deper-* persons wearing this coat were Senators called thence *La-* *dit. cap. de fi-* *bula.* *ticlavij*. The second sort belonged vnto the Roman knights and it differed in making from the first, only that the purple studs or embroadred workes of this, were not so broad as the former: whence the coat was called *Angusticlavia*, or *Angustus clavus*, and the persons wearing it were called *Angusticlavij*. The third sort belonged vnto the populacy and poorer sort of *Romanes*, it was made without any purfled workes, being called *Tunica recta*. This coate was given together with the *Virile* gowne to stripplings past fixeene yeares olde, and to new married wo-

men. And as the *recta tunica* was given with the *virile* gowne; so was the *tunica clauata* given together with the *toga pretexta*: and the *laticlavica*, otherwise called *tunica palmata*, given with the *toga picta*. The fourth and last sort belonged vnto women, being a long coate reaching down vnto the heels; they called it *stolam*. Vpon it they did weare an outward garment<sup>m</sup> called *palliū*, and sometimes *palla*, *quā palam gestabatur*.<sup>n</sup> *Sigonius* saith, that this *palla* was a certaine gowne vsed by stage-players: howsoever certaine it is, that not onely women, but men also and children did weare this kinde of garment. Besides the *Romane* gowne & coat there remaine other parts of their apparrell to be spoken of: such are these which follow, *Lacerna*, which some do english a cloake, but<sup>o</sup> *Festus* would haue it to be a little kinde of hood, which men should weare to defende themselves from the raine and weather; It was made that either side might be worne outward; & at first it was worne only in warre, so that *lacernati* stood in opposition with *togati*.<sup>p</sup> *Isidorus* *Togatos pro urbanis, lacernatos pro militibus usurpatos scribit*. Afterward as we may coniect, it was made longer in maner of a cloake, for it was diuers times worne vpon their coates instead of gownes. Another kinde of garment was the *Penula*, so called *quasi pendula*, we may translate it a long hanging cloake. A third was called *Mitra*, which sometimes did signifie a certaine attire for womens heads, as a coiffe or such like; though this kinde of attire was more properly called *Calantica*: other times it signified a girdle, which more properly was called *zona*; This *zona* chiefly signified a souldiers belt, or a marriage girdle. The souldiers belt was lined within in the inside, where when they went to warre, they did put their mony: whence *Horace* saith of a man that hath lost his mony, *zonam perdidit*. Young maides when they were married were wont to haue a marriage girdle tyed about their middle, which their husbände at the first night of their marriage shoulde vntie: whence *zonam soluere* hath beene translated to de-

flowre

flowre a Virgine; this marriage girdle in former times was called *Cestus*, from whence cometh the latin word *incestus*, and the english word Incest: which in truth signifieth all kinde of pollution committed by vndoing or vntying this girdle called *cestus*: but now in a more strict acception it signifieth onely that kinde of naughtinesse, which is committed betweene two of neere kin: and that other follie which is committed with a strangers wife, is now properly called *adulterium*; & that which is committed with a maide or widdow *stuprum*. The last thing touching their apparell is their shooes.<sup>r</sup> *Calceamentorum genera duo fuerunt, calceus, & solea*: For the soale of the shoe called in latin *solea*, sometimes *crepidula*, and in *Cicero* his time *gallica*, was tyed on to the bottome of the foote with leather straps or buckles, and so worne insteede of shooes: the diuers kinde of these shooes did distinguish the *Romane* people also. To omit the difference in colours, we may reduce the chiefe kinde to five heads, *Mullei*, *Vncinati*, *Perones*, *Cothurni*, *Socci*. All these sort of shooes were made halfe way vp the legge, as the Turkish shooes are according to *Iosephus Scaliger*: and they were either laced close to the legge, as many of our bootes are now adaies; or clasped with taches or haspes. The first sort called *Mullei*<sup>t</sup> from the fish *mullus*, being like vnto it in colour, were also called from their claspes *calcei lunati*, because the claspes were made in forme of an halfe moone, which halfe mooned claspe resembling a *Romane* C, signified an hundred; intimating thereby, that the number of the *Senators* (they onely being permitted to weare this kinde of shooe) were at first a full hundred and no more. *Vncinati calcei*, were those, which the souldiers were wont to weare. *Perones* (as we may coniecture) were laced vp the legge; for *Tertullian* making but two sort of shooes, saith there were the *Mullei* called from their claspes *lunati*, & the *perones* made without such halfe mooned claspes, called also *calcei puri*, *quoniam ex puro corio facti*; and these *perones* or *puros calceos* all the other *Romane*.

<sup>r</sup> Cælius in orat. pro Milone.

<sup>r</sup> Rosin. antiq. Rom. lib. 5. c. 36.

<sup>t</sup> Salmuth. in Pancirol. lib. rerum. deperdit. cap. de fibula.

<sup>t</sup> Appositam nigra lunam subtexit alute. Iuvenal.

<sup>t</sup> Salmuth. in Pancirol. lib. rerum deperdit. cap. d. fibula.

\* Salmuth in *manes* did weare with this note of distinction, that the *Panciroli*. lib. *magistrates shooes* were beset with precious stones; private mens were not. Thus much concerning both the kinds & fashiō of the shooes may bee collected out of *Rosinus* in the place aboue quoted. The description & vse of the *Cothurnus* & *Soccus* may be scene in the tract \* *de Romanis ludis*.  
\* Vid. pag. 37.

## CHAP. 6.

*De nuptijs & nuptiarum renunciatione.*

\* Salmuth in *Panciroli*. lib. *rerum deperdi arum* c. de nuptijs.

**B**Efore we come vnto the solemne ceremonies vsed by the *Romanes* in their mariages, we will first shew the manner of their contracts, which were called by the *Romanes*, *Sponsalia à spondendo*; because in their contracts each did promise other to liue as man and wife. Now the manner of contracting was commonly thus: They did for the greater security write downe the forme of the cōtract vpon tables of record, as it appeareth by *Iuuenal. Satyr. 16.*

*Si tibi legitimis pactam iunctamq; tabellis*

*Non es amaturus---*

These tables were also sealed with the signets of certaine witnesses there present, who were tearmed from the act of their sealing *Signatores*. Moreover before they would begin the ceremonies of their contract, the mā procured one soothsayer, and the woman another, with whom first they would consult. Whence *Iuuenal.*

---*Veniet cum signatoribus auspex.* The token or signe which these soothsaiers in time of observing accounted most fortunate was a crow: \* *Ea enim cornicum societas est, ut ex duabus socijs altera extincta vidua altera perpetuo maneat.* The man also gaue in token of good will a ring vnto the woman, which shee was to weare vpon the next finger to the little of the left hand; \* because vnto that finger alone a certaine artery proceedeth from the hart. The word *nuptia* which signifieth mariage had its derivation a *Nubo* which verbe in old time signified to cover: the custome be-

being that the woman should be brought vnto her husband with a vaile (called *Flammens*) cast over her face. Againe because of the good successe that *Romulus* and his followers had in the violent taking away of the *Sabine* women, \* they continued a custome that the man should come and take away his wife, by a seeming violence from the lap or bosome of her mother or her next kinne. Shee being thus taken away her husband did dissever and divide the haire of her head with the top of a speare, wherewith some fencer formerly had beene killed. This speare was called by them *hasta celebris*,<sup>d</sup> and the ceremony did betoken, that nothing should disioine them but such a speare or suchlike violence. We must note that \* three manner of waies a woman became a mans lawfull wife: *usu, cōsarreatione, coemptione*. A woman became a mans lawfull wife *usu*. i. by prescription or long possession, if that she were wedded with the consent of her overseers, and so did liue with the man as with her lawfull husband a whole yeares space, *nullo interrupto usu*. i. f shee beeing not absent three nightes in the whole yeare from him. And some haue thought that the counterfeited violence in taking away the maide from her friends was vsed onely in this kinde of mariage. A woman became a mans wife *confarreatione*. i. by certaine solemnities vsed before a Pontife or chiefe-bishop, when the woman was given vnto the man vsing a set forme of words, ten witnesses being present and a solemne sacrifice beeing offred, at which the maryed couple should eat of the same barley cake, which formerly had beene vsed in sacrifice. Which sacrifice was tearmed from *farre confarreatio*, and the mariage it selfe *Farracia*, and s somerimes *sacra simply*; the dissolution of this kinde of mariage *Diffarreatio*. A woman became a mans wife *coemptione*. i. by buying and selling, when the woman did vnder a feigned forme of sale buy her husband, by giving him a piece of coine. <sup>h</sup> *Veteri Romanorum lege, nubentes mulieres tres ad virum asses ferre solebant: atq; unum quidem quem in manu tenebant, tā-*  
*quam*.

\* Sig. de iur. Rom. l. 1. c. 9.

<sup>d</sup> Salmuth in *Panciroli*. lib. *rerum deperdit. cap. de nuptijs*,  
<sup>e</sup> Fr. Silv. in orat. pro L. Flacco.

<sup>f</sup> Sig. de iure Rom. l. 1. c. 9.

<sup>g</sup> Cic. orat. pro Murana.

<sup>h</sup> Sig. de iure Rom lib. 1. c. 9.

\* Alex. Gen. lib. 2.

\* Aul. Gell.

<sup>b</sup> Rosin. an. riq. lib. 5. c. 37

<sup>i</sup> Cic orat.  
pro Muræna.  
Itē. Fr. Sil. lib.

*quam emendi causa marito dare.* In which kind of mariage the man was not named by his proper name, nor the woman by hers, but the man was named *Caius*, and the woman *Caia* in the memory of the chaste and happy mariage of *Caia Cæcilia* wife to *Tarquinius Priscus*: from whence sprang a custome among them, that the new married bride when shee was brought home vnto her husbands house, was to vse this proverbe, *Ubi tu Caius, ibi ego Caia*; by which wordes shee signified that shee was now owner of her husbands goods as well as himselfe: and therefore *Erasmus* hath expounded that saying by these words, *Vt tu dominus, ita ego domina*. If any of these ceremonies were omitted, <sup>k</sup> then was the mariage termed *Nuptia innupta*, in which sense we call our enemies giftes no giftes, *Εχθρῶν ἀδωρεα δῶρεα*. These ceremonies being ended, towards night the woman was brought home to her husbands house with five torches, signifying thereby the need which married persons haue of five Gods or Goddesses. *i. Iupiter, Iuno, Venus, Suala, and Diana*, who often times is called *Lucina* (the reason being rendred by *Ovid*:

--- *Dedit hac tibi nomina lucus,*

*Aut quia principium tu dea lucis habes.)*

The matter whereof these torches were made, was a certaine tree, from which a pitchy liquor did issue: it was called *Teda*, and thence haue the Poets figuratiuely called both the torches, and the wedding it selfe *Tedas*. When the woman had bene thus brought to the dore, then did shee annoint the posts of the dore with oyle, from which ceremony the wife was called *uxor quasi uxor*. This ceremony of annointing being ended, the bridemen did lift her over the threshold and so caryed her in by a seeming force, because in modesty shee would seeme not to goe without violence into that place where she should loose her maiden head: At her carying in al the company did cry out with a

lowd voice *Talassio, Talassio*: for which custome <sup>m</sup> *Plutarch* vira Pompeii allegeth many reasons; this being one. Among those who

<sup>l</sup> Serv. Ænei.  
lib. 4.

<sup>m</sup> Plutarch.  
vira Pompeii

ravished the daughters of the *Sabines*, there were founde some of the meaner and poorer sort carying away one of the fairest women: which being knowne certaine of the chiefe citizens would haue taken her from them, but they began to cry out that they caryed her to *Talassius*, a man well beloued among the Romanes; at which naming of *Talassius* they suffered her to be caryed away, themselves accompanying hir, and often crying *Talassio, Talassio*. Fro whence it hath bene continued as a custome among the Romanes ever after at their mariages to sing *Talassio, Talassio*: as the Greeks did *Hymen, Hymenæe*. From this custome of leading or bringing home the new married bride, cometh that comicall phrase *Ducere uxorem*, to mary a wife. Shee being thus brought home, receaued the keyes of her husbands house, whereby was intimated that the custody of al things in the house was then committed vnto her. <sup>n</sup> The mariage bed was called *Genialis lectus*, as we may suppose <sup>n</sup> *quasi-Genitalis*. The next day after the mariage the bride-woman receaued gifts from her friends, which the lawyers termed *Nuptialia dona*. <sup>o</sup> But *Cicero* expoundeth these *dona* <sup>o</sup> *nuptialia*, to bee certaine tokens which the husband sent vnto his wife before the betrothing. If after the mariage any discontent had fallen out betweene the man & his wife p then did they both repaire vnto a certaine chappell built in the honour of a certaine Goddess called *Dea viriplaca* <sup>p</sup> *à viris placandis*, whence after they had bene a while there, they returned friends. We hauing thus seen the rites and ceremonies which the Romanes vsed in their contracts and mariages, it would not bee impertinent to annexe the manner of their divorcements, which vpo iust causes were permitted. There <sup>q</sup> were two manner of divorcements, the one between parties only contracted; the second between parties married. The first was properly called *Repudium*, in which the party suing for the divorcement, vsed this forme of words *cōditiōe tuā nō utar*. The second was called *Divortium*, wherein the partie suing for it vsed these wordes,

<sup>n</sup> Alex. Gen.  
dier. l. 2. c. 5.

<sup>o</sup> Vid. Fr. Silv  
pro Clientio.

<sup>p</sup> Sig. de iure  
Rom. l. 1. c. 9.

<sup>q</sup> Robin. An-  
tiq. l. 5. cap. 38

*Res tuas tibi habeto: vel Res tuas tibi agito.* Both these kinds were tearmed *Matrimony renuntiationes*, a renouncing or refusall of mariage. Where wee must note that instead of this verb *renunciare*, divers good autors do vse this phrase *Mittere*, or *Remittere nuncium*: As *C. Caesar Pompeia nuncium remisit*, *C. Caesar* hath divorce *Pompeia*. And alluding herevnto, <sup>r</sup> *Cicero* saith *virtuti nuncium remisit*. i. Hee hath cast off all goodnesse, hee hath even divorced vertue. Secondly we must note that this verbe *Renuncio*, doth not on ly signifie to renounce or to refuse, but many times in *Tully* it signifieth to declare or pronounce a magistrate elected, as *Renunciare consulem, prætorem, &c.*

## CHAP. 7.

*Quo apparatu, quibusq; ceremonijs apud veteres  
defuncta corpora igni tradebantur.*

THE Romanes in ancient time when they perceaued a body dying, had such a custome, that the next of the kinne should receaue the last gaspe of breath from the sicke body into his mouth, as it were by way of kissing him: (to shew therby how loath & vnwilling they were to be deprived of their friēds) & likewise should close the eies of the party being deceased. Whence *Anna* said vnto her sister *Dido* now dying

¶ *Virg. Æn. 4.*

--- <sup>r</sup> *Extremus si quis super halitus errat  
Ore legam*---

And *Penelope* wishing that her sonne *Telemachus* might out liue herselfe and his father, writeth to her husband in this manner *Ille meas oculos comprimat, ille tuos.*

After the body had thus deceased, they kept it seven daies vnburied, washing the corps every day with hote water, & sometimes anointing it with oyle, hoping that if the body were only in a slumber and not quite dead, it might by these hot causes be revived.

*Per calidos latices & athena vna antia flammis  
Expediunt, corpusq; lavant frigentis & vngunt.*

In

In these seaven daies space, all the dead mañs friendes met together now and then making a great outcry or shout with their voices, hoping that if the dead body had beene onely in a swoone or sleepe, he might thereby be awaked. This action was tearmed *conclamatio*, whence when wee haue done the best we can in a matter, and cannot effect it, we say proverbially *conclamatum est*: for this third conclamation or generall outcry (which was alway vpon the seaventh day after the decease) was even the last refuge, at which if the body did not reviuue, then was it caryed to burial being invested with such a gowne as the parties place or office formerly had required. Those who had the dressing, chesting or embaulming of the dead corps were called *Pollinctores*: After they had thus embaulmed the corps, they placed it in a bedde fast by the gate of the dead mans house, with his face and heeles outward toward the street, according to that of *Persius*.

--- *Tandemq; beatulus alto*

*Compositus lecto, crassifq; lutatus amomis*

*In portam rigidos calces extendit.*---

This ceremony was properly called *corporis collocatio*: and fast by this bedde neere the gate also was erected an altar called in Latine <sup>r</sup> *Acerra*, vpon which his friendes did e-

¶ *Alex. Gen.  
dier. lib. 3. c. 7.*

very day offer incense vntil the buriall. The gate in the outside was garnished with cypresse branches, if the dead mā were of any wealth or note: For the poorer sort, by reason of the scarcity of the tree, could vse no such testimony of their mourning. <sup>u</sup> *Et non plebeios luctus testata cupressus.*

¶ *Lucanus.*

In these seaven daies space certaine men were appointed to provide all things in readinesse for the funerall: Which things were commonly sold in the <sup>x</sup> Temple of *Libitina*, <sup>x</sup> *Alex. Gen. dier. l. 5. c. 26.* from whence those providers were tearmed *Libitinarij*; though sometimes this word *Libitinaris* doth signifie as much as *capularis* an old decrepit mā, ready for the graue. Vpon the eighth day a certaine cryer in manner of a bellman, went about the towne to call the people to the solē-



7 Rosin. Ant. nization of the funerall, in this forme of words: 7 Exequi-  
 1 ib. 5. as *L. Titio L. Filia quibus est commodum ire. Iam tempus est. Ollus ex adibus effertur*. After the people had assembled themselves together, the bed being covered with purple or other rich coverings, the last conclamation being ended; a trumpeter went before all the company; certaine poore women called *præfica* following after, and singing songs in the praise of the party deceased. Where wee must note that none but the better sort had a trumpet sounded before the; others had only a pipe. 2 *Senatoribus & patricijs tuba; minoribus & plebeis tibia caneant siticines*; this word *Siticines* signifying either a trumpetter or piper, because they did both *ad sitos. i. mortuos canere*. Againe, except it were one of the Senators or chiefe citizens, hee was not caried out vpon a bed, but in a coffin vpon a beere. Those that caried this bed were the next of the kinne, so that it fell often among the Senators themselves to beare the corps, and because the poorer sort were not able to vndergoe the charges of such solemnities, therevpon were they buried commonly in the duske of the evening; and hence *à vespertino tempore*, those that caried the corps were reamed *vespa* or *vespillones*. In the buriall of a Senator or chiefe officer certaine waxen images of all his predecessors were caried before him vpon long poles or speares, together with all the ensignes of honour which hee deserved in his life time. Moreover if any servants had beene manumized by him, they accompanied the mourners lamenting for their masters death. After the corps followed the dead mans children, the next of the kinne, and other of his friends *atrati*, .i. in mourning apparell. The corps being thus brought vnto their great Oratory called the *Rostra*, the next of the kin  
 2 *laudabat defunctum pro rostris* .i. made a funerall oration in the commendation principally of the party deceased, but touching the worthy acts also of those his predecessors, whose images were there present. The oration being ended, the corps was in olde time caried home againe in man-

2 Alex. Gen.  
dier. lib. 3.

2 Suet. C. Iulii  
Cæsar. c. 6.

manner as it was brought forth,  
*Sedibus hunc refer ante suis & conde sepulchro*.  
 But afterward by the law of the twelve tables it was provided, that no man besides the Emperour and Vestal Nuns should be buried within the city; though some vpon especiall favour haue obtained it. The manner of their burial was not by interring the corps, as in former times it had beene, but burning them in a fire (the reason thereof being to prevent the cruelty of their enemies, who in a mercilesse revenge would at their conquests digge vp the buried bodies, making even the dead also subiects of their implacable wrath.) This fire before the burning was properly called *Pyra*; in the time that it burned it was called *Rogus*, *quod tunc temporis Rogari solerent manes*; after the burning then was it called *Bustum quasi beneustum*. This *pyra* was alwaies built in forme of a tabernacle, as it is above more at large to be seene: whither after the dead man had beene brought, his friends were wont to cut off one of his fingers, which they would afterward bury, with a second solemnity. The charges at funerals growing by this means to be doubled, the law of the 12. tables provided in these words *Homini mortuo ossa ne legito, &c.* that no mans finger should be cut off, except he died either in the warre, or in a strange country. Where we must obserue, that *lego* in this place doeth signifie as much as *adimo* or *aufero*, in which sense we call him *sacrilegum, qui legit. i. qui adimit & aufert sacra*. After the dead body had beene laid vpon the *pyra*, then were his eies opened againe to shew him heaven if it were possible: 4 and withall an halfe penny was put in his mouth, they superstitiously conceiting, that that halfe penny was *naulum Charontis*, the pay of *Charon*, the supposed ferry-man of hell, who was to cary mens soules in his boate over the *stygian* lake after their decease. About this *Pyra* were first many boughes of Cypresse tree to hinder the evill sent of the corps to be burned. The dead body being thus laid vpon the *Pyra*, the next of the kin turning his

4 Salmuth in  
Pancir. lib. re-  
rū deperd. ca.  
de exequijs.

5 Servius Æ-  
neid 5.  
\* Sup. pag 30.

4 Alex. Gen.  
dier. l. 3.

face averſe from the *pyra*, did kindle the fire with a torch: After this commonly certain fencers hired for this purpoſe did combate each with other till one of them was killed; they were tearmed *bustuarij* frō *bustum*. The blood of thoſe that were ſlaine, ſerved inſteede of a ſacrifice to the infernall Gods, which kinde of ſacrifice they tearmed *Inferia*.  
 • Servius. *ⁱ Inferia ſunt ſacra mortuorum, qua inferis ſolvuntur*. Anon after the body had been burned, his neareſt friends did gather vp the aſhes & bones, which being waſhed with milk & wine were put into certain pitchers called *urna*: whence this word *urna* is often uſed by Poets to ſignifie a graue or ſepulchre, as

---*Vna requieſcit in urnâ. Ovid. Met. lib.4.*

ⁱ Roſin. antiq lib.5.

ⁱ Though properly *ſepulchrum* was in old time a vault or arched-rooſe, rounde about the wals whereof were placed certaine coffines called *loculi*, within which thoſe former *urna* were laid vp & kept, namely two or three in each cofine. Now theſe funerall ſolemnities were commonly towards night, inſomuch that they uſed torches; theſe torches they properly called *ⁱ funalia à funibus cerâ circumdatis, unde & funus dicitur*.<sup>h</sup> Others are of opinion that *funus* is ſo ſaid from the greeke word *φῶς*, ſignifying death or ſlaughter. The bones of the burned body being thus gathered vp, then did the Prieſt beſprinckle the cōpany with cleane water thruſe, and the eldeſt of the mourning womē called *præſica*, with a lowd voice pronounced this word, *Ilicet*, thereby diſmiſſing the company, (the word ſignifying as much as *Ire licet*;) Then preſently did the companie depart taking their farewel of the dead body in this forme of words: *Vale, vale, vale: nos te ordine quo natura permiferit ſequemur*. If any of theſe ceremonies had beene omitted

ⁱ Hier. Ferrarius in Cic. orat. Philip.

ⁱ Servius in Æneid. lib.5. *praſicem poſita*, their cuſtome being to eate that feaſt vp-

on

on an altar of ſtone, and becauſe this feaſt was onely eaten at funerals, and by the elder ſort, <sup>1</sup> hence figuratiuely this worde *ſilicernium* doeth ſometimes ſignifie an old creeple ready for the graue. The poorer people inſteede of a feaſt, received a dole or diſtribution of raw fleſh: this dole was tearmed *Viſceratio*. Moreover there was a potation or drinking of wine after the buriall called *Murrata* or *Murrhina potio*, which afterward the law of the 12. tables for the avoiding of expences did prohibit: as likewiſe for the moderating of griefe in the mourners it did prohibit the uſe of this word *Leſſum*, [*Neve leſſum funeris ergo habento*] for that word was often ingeminated in their mourning as a dolefull eiulation, or note of inward ſorrow. This ſorrowing or mourning was in ſome caſes vtterly prohibited, in others <sup>l</sup> limited; <sup>m</sup> Namely an infant dying before hee was three yeares old, ſhould not be mourned for at all; becauſe hee had ſcarcely yet entered into his life. Neither might children mourne for their fathers, or wiues for their huſbands any longer then ten monthes, within which time without ſpeciall diſpenſation or licence, it was not lawfull for the widdow to marry another huſband. Here we may with *Ranardus* obſerve a diſtinction betweene *lugere* and *Elugere*. *Lugere* ſignified no more then to mourne ſome part of the time preſcribed; *Elugere* to mourne the whole and full time.

<sup>1</sup> Antefig in Terc. Adelph. Act. 4.

<sup>m</sup> Alex. Gen. dier. lib.3. c.7.

Lib.3.





## Lib. 3. Sect. 1.

## Of the Romane assemblies.

## De Comitijs.



It herunto haue we insisted vpon the description of the most remarkable parts of the *Romane* city, together with the severall divisions of the *Romane* people, as also the *Romane* religion: where we haue seene the generall divisions of their Gods, their sacrifices, with their ceremonies thereunto belonging, and other collaterall tracts, as *appendices* vnto religion. Now are we to proceede to that part of government which is politicall or civill, where we will first speake of their civill magistrates, then of so many of their civill lawes, as I haue observed needfull for the vnderstanding of *Tully*; & that principally in his orations: for the more easie conceiving of both I haue premised a chapter or two *De Comitijs*.

## CHAP. I.

*De Comitijs, idq; Calatis precipue, & de Rogationibus.*

Very assembly of all the *Romane* people, being called together by a lawfull magistrate to determine any matter by way of giving voices, is à *cocundo* termed *Comitia*, simply, without the adiection of any other word; or *Comitia calata*, that is, assemblies called together, from *calo*, or the obsolete latin verbe *calo*, which signifieth to call: though afterward those

## Of the Romane assemblies.

those assemblies onely, which were held either for the inaugurating of some pontific, some *Augur*, some *Flamen*, or him that was called *Rex sacrorum*, or for the making of their wils & testaments were called *Calata comitia*. Whence the will that was made in these assemblies was called *Testamentum calatis comitijs*. This kinde of assembly is sometimes called *comitia pontificia* and *comitia sacerdotum*, in that sense as others are called *Cōsularia*, or *Edilitia comitia*; namely because the pontifices in these, as the *Consuls*, & *Ediles plebis* in the others were chosen. There followeth three other kinds of assemblies: for either the people did assemble themselves by parishes, called *Curia*; or by hundredths, called *Centuria*; or by wards, called *Tribus*. The first sort of assemblies they called *comitia Curiata*, the second *comitia Cēturata*, the last *comitia Tributa*.<sup>b</sup> Where by the way we must note, that that thing which was determined by, the *maior* part in any parish, hūdreth, or ward was said to be determined by that whole parish, hundreth or ward, & that which was determined by the *maior* part of parishes, hundreths, or wards, was said to be approved *comitijs Curiatis, Centuriatis, vel Tributis*. Secōdly we must note that neither children vntill they were seenteene<sup>c</sup> yeares old, nor old men after the sixtieth year of their age, were allowed to suffrage in these assemblies, whence arose that adage *Sexagenarij de ponte dei cendi*: and old mē were hence called *Depontani*, for the explication of which see *Fast.*

<sup>a</sup> before. Likewise those whom for some notorious crime the cēfors had disfranchised, had no authority of suffraging: They were termed *Ærarij* because they did *pro capite suo*

*tributi nomine, era pendere*. Here before we speake of those three severall kinds of assemblies, we will consider the manner of their proceedings in propounding cases vnto the assemblies.<sup>d</sup> The custome was at first, that the *Romanes* should bestow their suffrages *Vinā voce*, but afterward

that every one might with freer libertie giue his voice, they commanded certaine wooden tables, wherein the

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names

<sup>a</sup> Ioan. Tiffi-  
nus in orat.  
pro cælio.

<sup>b</sup> Sigon. de  
iure Rom. lib.  
cap. 17.

<sup>c</sup> Pars putat ve-  
terem iuvenem  
suffragia solis  
Pontibus infir-  
mos precipitasse  
se senes. Ovid.

<sup>d</sup> Pag. 13.

<sup>e</sup> Sigon. de  
iure Rom. lib.  
cap. 17.

<sup>d</sup> Philip. Be-  
roaldus in o-  
rat. Phil. 11.

names of those that stood for offices were written, to be carried about, every suffrager receaving so many tables, as there were suitors: then did the people giue backe that table with whom they would suffrage. But if a law were to be enacted, the every suffrager receaved two tables, in the one of which were written these two great letters V.R; in the other was written a great *Romane* A. Those who delivered these tables vnto the people, did stand at the lower end of those bridges (which were erected vp for the suffragers to ascend vnto the *ovilia*) whence they were called *à diribendo*. i. from distributing *Diribitores*. At the other end of the bridges were placed certaine chests or little coffers, into which the suffragers which did approue the law did cast in the first table; those that disliked it, did cast in the second: for by those two letters V.R. which were written in the first, is meant *Vti Rogas*. i. Be it as thou hast asked, this word *Fiat* being vnderstood. By A. in the second table was meant *Antiquo*. i. I forbid it, the word signifying, as much as *antiquum volo*; I like the old law, I loue no innovations. The tables being thus cast into the chests, certaine men appointed for that purpose in manner of *Scrutators* (they called them *Custodes*, and sometimes *Nongenti*) did take the tables out of the chests, and so number the voices by making so many points or pricks in a void table, as they found tables alike: which kind of accounting occasioned these and the like phrases; *Suffragiorum puncta nō tulit septem*, and *Omne tulit punctum*; where *punctum* is vsed for *suffragium*. The voices being thus numbred, it was pronounced by the common cryer what was decreed. Because the vse of those tables is now growne quite out of vse, I shall make bold to insert that, which with much labour I haue collected out of severall autors touching these tables. It is certaine that a long time the vse of paper was not known, whence men were wont to write sometimes vpon the inward rinds of trees, called in Latine *Libri* (so that to this day we call our bookes *Libri*, because in olde time they were

\* Vid. pag. 13.

\* Plin. l. 33.  
cap 2.

were made of those rinds of trees: ) sometimes they did write in great leaues made of that rush *Papyrus*, growing in *Egypt*, from which we haue derived our english word *Paper*, and the latine word *Papyrus*; now signifying our writing paper; but the *Romans* at this time did vse to write in tables of wood, covered with wax, called in latine *cera-  
ta tabula*. They wrote their wills and testaments in tables, *Hinc secundum & contra tabulas bonorum possessio*; The possession of goods either according or against the testator his will. Because of the wax wherewith these tables were covered, *cera* is often vsed in the same sense, as *Heredes prima cera*, i. *prima tabula & in primo gradu instituti*; by which words I think are vnderstood such heires as *Alexander* calleth *Heredes ex toto asse*, i. heires to the maine inheritance, opposing them to those which did receave only legacies, whom he calleth there *Heredes in imâ cerâ, secundos heredes, & legatarios*. *Sylvius* not vpon improbable grounds doth thinke that *Tully* doth vnderstand by *Heredes secundi*, such heires as were nominated to succeed the chiefe heire or heires if they died. They wrote their accounts in tables, hence *Tabula accepti & expensi*, signifying reckoning books. They wrought their statutes also in tables, whence *Tabula publica*, are englished statute books, or rather bookes of record. Those writings or instruments which the Senate or Emperour caused to be hanged vp in the market place, to release and discharge any bankrupt from paying his debts, they tearmed *tabulas novas*; wee may english them letters of protection. They wrought their inventories of goods set at sale in tables calling them *tabulas auctionarias*: yea they indited their epistles and common letters in tables, insomuch that *tabella* are expounded missiue letters, and *tabellarius* which properly signifieth a carier of tables, is now vsed to signifie a letter-carier. The manner how they sealed their letters was thus: they did bind another table vnto that, wherein the inditement was, with some strong thread sealing the knot of that thread

\* P. Pellitar.  
in orat. pro A.  
Cœcinnâ.\* Alex. Gen.  
dier. l. 1. c. 1.\* Fr. Sylvius  
pro Cluentio\* Fr. Sylv. in  
orat. Catilin.  
2<sup>a</sup>. n.\* Fr. Sylv. in  
orat. Catilin.

3.

¶ Pellitar. in  
orat. pro A.  
Cecina.

¶ Vid. Erasmi.  
Adag.

¶ Cic. orat.  
contra Catil.

¶ Cic. orat.  
pro Muren.

¶ Mic. Toxita  
in orat. Phi-  
lippic. 2.

with wax, whence *Cicero* saith *Linum incidimus*. i. we opened the letters. Lastly they wrote their bookes in tables, whence from them we doe at this day call our bookes *codices à codicibus*, *candex* signifying properly the truncke, or stocke of a tree, whereof these tables or bookes were made. We must note withall that they wrote not with ink or quill, but with an instrument of Steele or yron, having a sharpe point at the one end, and being broad, yet keene and well edged at the other: with the sharpe point they did write what they pleased, with the broad end they did scrape out what they had written: whence *stylum invertere* is to say and unsay a thing, to turne his punch the wrong end downeward, as it were to scrape out that which one had formerly written. And as wee vse this word *Manus* to signifie the writing it selfe, according to that of *Tully*, *cognovit manum, & signum suum*: so in the like sense we vse this word *stylus*, to signifie the peculiar tenure or straine of phrase, which any man observeth in the composing of an oration, epistle, or such like; in which sense *Tully* vseth it as the *antithetō* to *gladius*, in that speech of his *Cedat foris castris, otium militia. stylus gladio*; though in another place he vseth it to signify, if not a sword yet a pocket dagger, as *Et si meus ille stylus fuisset*; in which place *stylus* doth signifie as much as *pugio*. Now that wee may returne to the matter whence we haue digressed, wee will proceed to shew the maner how they enacted their laws. Al the *Romans* had not power and authority of preferring a law, but onely eight of their magistrates which they called *Magistratus maiores*; namely the *Prator*, the *Consuls*, the *Dictator*, the *Interrex*, the *Decemviri*, the military *Tribunes*, the *Kings*, and the *Triumviri*, vnto these eight was added one of those whom they called *Magistratus minores*, namely the *Tribunus Plebis*. If any of these Magistrates thought it fit to preferre a law, then did he first write it downe at home, and consult with some lawyer, whether or no it might be for the good of the common wealth, whether it would not weaken anie

form or

former law, or whether it was not formerly included in some other law, &c. These and many other cautions were to be considered, before it was preferred, yea some would haue the approbation of the whole Senate after the advise of their lawyer, though diverse times that hath been omitted. And the lawyer alone allowing it, the law was hanged vp publicquely in the market place for the space of three market-daies, which kinde of publishing the law was termed *Legis Promulgatio quasi promulgatio*, during which time of promulgation, reasons were alledged *pro & con*: by the spectators: and all the people had so much time to consult of the conveniency thereof, and every one vpon iust reason, had free liberty to admonish him that preferred the law, either to amend it, or to surcease the proposall. After the third Market-day, (for vnlesse it were vpon an extraordinary occasiō, no assembly might be called vpon a market-day, because of the country folks businesse, they also having freedome of suffraging) the magistrate did convoke the people to that place where the law was to be proposed: there the Towneclerke or notary reading the law, the common cryer proclaimed it, then did he which promulged it make an oration vnto the people, perswading them that it might passe. Sometimes others of his friends would second him with orations in his behalfe, as likewise others that disliked it, would by orations disswade the people, shewing the inconueniency thereof. After the orations had been ended, an urne or pitcher was brought vnto certaine Priests there present, into which were cast the names of the tribes, if the *comitia* were *tributa*, or of the centuries if they were *centuriata*, or of the parishes if *curiata*: then *sortibus aquatis*. i. the lots being shakē together, they drew their lots; and that tribe or centurie whose name was first drawn, was called *Tribus vel Cēturia prerogativa, à prerogando*, because they were first asked their voices: that *curia* vpon which the first lot fel, was called *Principium*, because that *curia* did first suffrage. Those Tribes vpon whom

the other lots fel, namely the second, third, fourth, &c: were tearmed *Tribus Iurevocate*. From this distinction it is that such a man as hath the voices of the prerogative tribe, or century, is said to have *Omen prerogativum*: which good fortune whosoever could attaine vnto, was in great hope of obtaining the other voices of the *Iurevocate*; for they never or very seldome would swarue from the determination of the prerogative tribe or centurie. Whiles the people were busie in their lottery, in the mean time if any Tribune of the commons would *intercedere*. i. forbid the proceeding, he might be heard, & the whole assembly therevpon should bee dismissed: likewise they were dismissed if either he which first promulged the law did alter his opinion, or if the *consul* commaunded supplications to bee offered vp in the behalfe of their Emperour, or any of those holy daies called *Feria Latine vel Imperativa* to bee observed vpon that day; or if any of the people assembled were taken with the falling sicknesse (by reason whereof that disease is called by the Physicians at this day, *Morbus comitialis*): lastly the assemblies were dissolved by reason of the toothsayings, which kinde of dissolution was caused either by the civill magistrate his observing of signes and tokens in the heaven, and that was called *Spectio*, and sometimes *de caelo observatio*; the very act of this observation, though no unlucky token did appeare dissolved the assembly: or else it was caused by the *Augures*, and civill magistrate promiscuously, whensoever any evill token was seene or heard either by the magistrate or *Augur* (amongst which thunder was alwaies counted the unluckyest) at which time the assemblies were in like maner to be dissolved: this maner of dissolution was tearmed *obnunciatio* or *Nunciatio*.<sup>u</sup> *Obnunciabat, qui contra auspicia aliquid fieri nunciabat*. Both these kindes are easily to be collected out of that speech in Tully

<sup>x</sup> Cic. orat. Philip. 2. *Nos augures nunciationem solum habemus, consules & reliqui magistratus etiam spectationem*. Here we may fitly in way of conclusio vnto this tract, adde a iust difference to be observed

<sup>u</sup> Stadius in Flor. l. 3. c. 7.

<sup>x</sup> Cic. orat. Philip. 2.

served between these phrases, *Promulgare*, *Rogare*, *Ferre*, et *Figere legem*. *Promulgare legem* was to hang vp a law not yet asked, to the publique view of the people, to be examined by them touching the conveniencie thereof. *Rogare legem* was to vse a certaine oration vnto the people, to perswade the conveniencie of the law, which oration because it began with this forme of words, *Velitis, inbeatisne Quirites?* .i. O yee Romanes is it your wil and pleasure that this law shall passe or no? Hence was it tearmed *legis rogatio*. *Ferre legem* was when the law had beene approved of by the people, then to write it downe vpon record, and so to lay it vp into the treasure-house; *Cum approbata fuisset lex, in as. & Fr. Maturā. incidebatur, & in arario condebatur, & tunc demum lata dicebatur*. Lastly, *Figere legem* was to publish the law after it had been approved & recorded by hanging it vp in tables of brasse in their market places, or at their church doores. hence it is that wee vse *tabulam figere* in the same sense, namely to enact or establish a law, & *refigere legem* to disproue or cancell a law. And that which was determined by the *Comitijs curiatis* was tearmed *lex curiata*, that which was determined by the *Comitijs centuriatis*, *lex centuriata*, that which was determined by the *Comitijs tributis* was not called a law, but *Plebiscitum*.

## CHAP. 2.

### De Comitijs Curiatis.

**C**omitia curiata were those, wherein the Romane people being divided into thirty parishes did giue their suffrages: they were so called from *curia* signifying a parish. And vntill *Servius Hostilius* his time, who did first institute the *comitia centuriata*, all things which were determined by the suffrages of the people, were determined by these *curiata comitia*: But after the other two sortes of assemblies had beene established, these *curiata* were vsed onely either for the enacting of some particular lawes, or for the creating of some certaine priests called *Flamines*. For the better vnderstanding hereof we must remeber, that though

though at first these thirty parishes were parts of the three Tribes (each tribe being divided into ten parishes,) yet in proceſſe of time the encrease of the *Romane* people was ſuch, that a great part of the *Romane* fields were filled with buildings & places of habitation, inſomuch that the tribes of the *Romanes* were encreaſed to thirty five: but the pariſhes (becauſe none that dwelt out of the city were tied to the rites and ceremonies of the *Romane* religion) did not encrease, ſo that the pariſhes did not alwaies remaine parts of the tribes. Hence it followeth that all the *Romanes* had not power to ſuffrage in theſe aſſemblies, but thoſe alone, who dwelt within the city: for no other could be of anie pariſh. The place where theſe aſſemblies were held, was the great hal of iuſtice called from theſe aſſemblies *Comitium*. Before theſe aſſemblies were held, it was required that ſome lawfull magiſtrate for ſome competent time before hand ſhould ſolemnely proclaime them, and the thirtie ſerjants (each pariſh hauing for that purpoſe his ſerjant) ſhould call the people together; as likewiſe three *Angures* or at leaſt one ſhould bee preſent to aſſure them by their obſeruation, either of the favor or diſpleaſure of the Gods. Vpon theſe premiſes the matter was propoſed vnto the people, who if they liked it, the they proceeded vnto their election; if otherwiſe they diſliked it, then did the *Tribunus plebis intercedere*. i. forbid their proceedings: wherevpon their aſſemblies were preſently diſſolved.

## CHAP. 3.

## De Comitij Centuriatis.

**A**S thoſe former aſſemblies were called *Curiata à curijs*, ſo were theſe called *Centuriata à Centurijs*. *Seruius Tullius* cauſed a generall valuation of every citizens eſtate throughout *Rome*, to be taken vpon record together with their age: and according to their eſtates and age, he diuided the *Romanes* into ſix great armies or bands which he called *Clafſes*; though in truth there were but five

of

of ſpeciall note: the ſixt contained none but the poorer ſort and thoſe of no worth or eſteeme. The valuation of thoſe in the firſt *Clafſis* was not vnder two hundred pounds, and they alone by way of excellency were termed *Clafſici*: and hence figuratiuely are our beſt and worthieſt authors called *Clafſici ſcriptores*, Clafſicall authors. All the others though they were enrolled in the ſecond, third, or any other *Clafſis*, yet were they ſaid to be *Infra clafſem*. The valuation of the ſecond band was not vnder ſeuene ſcore pounds. The valuation of the third was not ſo little as an hundred pounds; of the fourth not leſſe then forty pounds; of the fifth not leſſe then twentie five pounds. The ſixt contained the poorer ſort, whom *Horace* calleth *Tenuis cenſus homines*, men of ſmall ſubſtance; and alſo they were called *Proletarij à munere officioq; prolis edēda*, as if the only good that they did to the common weale, were in begetting of children: and ſometimes they were called *Capite-ceſſi*, that is ſuch as paid either very little or nothing at all towards ſubſidies, but only they were regiſtred among the citizens as it appeareth by *Sigonijs*. Theſe ſix great bands or armies were ſubdivided into hundredths called in Latine *Cēturia*. The firſt *Clafſis* contained foureſcore centuries of footmen, and eightene of horſemen: the ſecond contained twentie centuries of footmen, and two of workemen, which followed after to make military engines & weapons: the third alſo, as likewiſe the fourth contained twentie centuries of footmen, but to the fourth were added two other centuries of trumpeters, drummers, and ſuch like, who vpon iuſt occaſion did *Clafſicum canere*, ſound the alarme and vpon iuſt occaſion did againe *receptui canere*, ſound the retreat: the fifth *Clafſis* contained thirtie centuries of footmen: the ſixt or laſt *Clafſis* contained one century: ſo that in all the ſix *Clafſes* were contained one hundred foureſcore and thirteene centuries. Where we muſt note that all the centuries of footmen did conſiſt the one halfe in every *Clafſis* of the younger ſort, who were to make war abroad

<sup>x</sup>Sig. de Rom  
lib. 1. cap. 4.

O

vpon

vpon the enimies; the other halfe of old men, who remained at home for the safety of the citie. All that hath beene hitherto spoken of these *Centuriata comitia*, may be collected out of *Sigonius* in the place aboue quoted. The chiefe cōmander of every centurie was called *Centurio*; the rod or tip-staffe, wherewith he did strike his souldiers to keep the in aray, was called by *Pliny*, *Centurionum vitis*. So then we may perceauē, that those *Centuriata comitia* were those, wherein the people did giue their voices by centuries, or hundreds. Now the cēturies did not consist of those alone which had their places of habitatiō at *Rome*, but of certaine *Municipall* states also, & such colonies or other states, that could <sup>d</sup> *Plenum civitatis ius cū iure suffragij adipisci*.<sup>e</sup> Now the custome in old time was, that al these centuries should march in their armour after the magistrate which assembled them, into the *Campus Martius*, there to giue their voices. But this custome continued not long, for thereby they did disarmē the citie, and giue their enimies (if any should assaile them in time of their assemblies) the greater advātage: for their greater securitie therfore, they appointed a flagge to bee hanged out vpon the mount *Ianiculus*, some few armed men standing there in swatch & ward for the safegard of the citie: and when the assembly was to bee dissolved, then did the watch depart, and the flag was takē downe: neither could any thing after that bee determined; but if they cōtinued their assemblies, then did they proceed to the giuing of their voices, in old time thus. Those cēturies of the first *Classis* being the wealthier had the prerogative of suffraging first, and because this first *Classis* contained more centuries then all the rest, therefore, if they could agree among themselves, the other centuries were never asked their voices. This kind of suffraging being somewhat partiall in as much as the richer and wealthier being placed in the first *Classis* did oversway the elections against the poorer sort of people; thence did the after ages appoint that that cētury should haue the prerogative of suffraging first

<sup>d</sup> Rosin. Ant lib. 6. cap. 10.  
<sup>e</sup> Rosin. antiq. Rom. lib. 6. c. 16.

first, vpon whom the lot fell. The other centuries were all called <sup>f</sup> *Centuria Iurevocata*, and did giue their voices not by lots (as the *Tribus Iurevocata* did) but the elder and wealthier centuries did suffrage next after the prerogative centurie, accordingly as their place required.

## CHAP. 4.

## De Comitibus Tributis.

FOR the better vnderstanding of these assemblies by Tribes or wards, it will bee needfull first to learne, that this word *Tribus* in this place doth signifie a certaine region, ward, or locall place of the citie, or the fields belonging therevnto according to that, <sup>g</sup> *Tributa comitia erant cū ex regionibus & locis suffragabantur*.<sup>h</sup> It was so called either <sup>i</sup> *à tributo dando* every severall region or quarter paying such a tribute; or *quia primò tres tantum fuerunt*, the whole citie being at first divided only into three regions, or wardes, each nationall tribe having his seuerall region or locall tribe to dwell in. The first nationall tribe called *Ramneses* did inhabit the mount *Palatine*, and the mount *Caelius*, & those two hills made the first locall tribe. The second nationall tribe called *Tatienfes* did inhabite the *Capitol*, and the *Quirinal* mountaine, which two mountaines made the second locall tribe. The third nationall tribe did inhabite the plaine betweene the *Capitol* and the *Palatine* hill, and that plaine was called the third locall tribe. Of these tribes more is spoken in the <sup>\*</sup> first division of the Romane people. <sup>\*</sup> Vid, pag. 22. Only here we must note thus much, that in processe of time after the citie was enlarged, and the number of the Roman citizens encreased, these locall tribes were also augmented, so that they amoūted at the last to the number of 35. some of them being called *Urbana*, others *Rustica*; <sup>h</sup> *Urbana ab urbis regionibus*, *Rustica ab agri partibus erant nuncupata*.<sup>i</sup> And of these two sorts the *Tribus rustica* were accounted the more honourable. Moreover wee must remember, that a man might be reputed of this or that tribe, although hee had

<sup>h</sup> Sig. de iure Rom. l. 1. c. 3.



had no place or habitation therein. Concerning the place where these *Tributa comitia* were had, sometime they fell out to be in the *Campus Martius*; sometimes in their great hall of iustice called *Comitium*; sometimes in the *Capitol*; many times in other places, according to the discretion of the magistrate which caused these assemblies.

## CHAP. 5.

## De Candidatis.

**I**T shall not be impertinent to annexe some necessary observations touching the *Romane* petitors or suiters for bearing office: where we wil obserue these three phrases *ambire magistratum*, *inire magistratum*, and *abire magistratum*. The first signifieth, to sue for an office, the second to enter into the office, the third to depart out of the office. Again the difference of these phrases, *Conficere legitima suffragia*, & *Explere suffragia*. The first signifieth to haue so many voices as the law doth require. The second signifieth to haue more voices then any other competitor, but not so many as the law requireth.

These persons were tearmed *Candidati*, à *toga candida*, from the white gowne which they did weare, as appeareth more at large \* where we haue spokē *De Romanâ togâ*. That they might the easier procure the goodwill of the people, k these foure things were expected from them. First *Nomenclatio*, the saluting of every citizen by his name; for the better discharge of which, they had a certaine follower, which should, by way of prompting, tell every citizens name as he passed by, and hence this prompter was sometimes called *Nomenclator*, which word doth properly signify a common crier in a court of Iustice, such as call men to their appearance, whence they had their name from *Nomen* & *calo*, an old latin word to call; sometimes *Monitor*; sometimes *Fartor ab infarciendo in aures*. Secondly, *Blasphemia*, that is, a friendly compellation by the addition of some complementall name, as well met friend, brother, father

ther, &c. Thirdly, *Affiduitas*, that is, an hote canvaſing or soliciting men without intermission. Lastly, *Benignitas*, a bountifull or liberall largesse, or dole of mony called *Cōgiarium* from the measure *Congius* containing a gallon, because their dole was at the first made of oile or wine distributed in those measures. Howbeit *καταχρησμός*; any dole gift or larges in mony or otherwise is called *cōgiarium*. The distributors of this dole were called *divisores* & *sequestres*, although sometimes *sequester* signified a briber or corrupter of a Iudge. Likewise their bounty or liberality consisted in providing great dinners, and exhibiting great shewes vnto the people, &c.

Lib. 3.





Lib. 3. Sect. 2.

Of the Romane Magistrates.

CHAP. 1.

De magistratibus Romanis.



• Sig. de iur.  
Rom. l. 1, c. 20.

E being to create of the Romane magistrates will first see what the definition of a magistrate is. A magistrate is he<sup>o</sup> who receiveth by publique authority the charge and oversight of humane affaires belonging to the commo wealth. These Romane magistrates were either to be chosen only out of the better sort of Romanes, called the *Patricij*; or else onely out of the commonalty. ¶ The first were thence called *Magistratus patricij*, the second *Magistratus plebeij*. The *Patricij* had power to hinder the assemblies of the people; namely their *Comitia* by observing signes and tokens from the heavens: howbeit some of them had greater power, others lesse; insomuch that some were called *Maiores magistratus, quoniam habebant maiora auspicia*. i. *magis rata*. Others were called *minores magistratus, quoniam habebant minora auspicia*. Of these in their order.

¶ Sig. de iure  
Provinc. l. 3.  
cap. 1.

¶ Fenest. de  
magist. Rom.  
cap. 1.

CHAP. 2.

De Rege & Tribuno Celerum.

I N the infancie of Rome, it was governed by a king untill *Tarquinius Superbus* his time, who by maintaining that shamefull act of his sonne towards *Lucretia* did so increase

Of the Romane magistrates.

171

cense the people, that they did not only for the present exile him, but decreed that their city should never after that be governed by a king. This king had absolute rule & government over the city. For the safety of his person he had three hundred chosen young men alwaies to be attendant about him, much like unto our kings Maiesties Guard here in England, or rather his Pensioners. They were called *Celeres à celeritate*, from their readines in assistance: sometimes they were called *Trossuli*,<sup>†</sup> because they alone without the helpe of any foote-men did take a certaine city in *Etruria* called *Trossulum*. Other times they haue beene called *Flexumines*, wherof as yet there hath beene no certaine reason rendred. Each hundred of them had their severall overseer called *Centurio*: and over them al there was one generall overseer and chiefe commaunder, whom they called *Præfectum vel Tribunum Celerum*, his place being next to the king. A second sort of attendants about the king were called *Lictores à ligando*, according to that, *Lictor colligamantus*. They did somewhat resemble our Serjants there being in number twelue of them. Their office was to carie certaine bundles of birchen rods with an axe wrapped vp in the middest of them: the rods in latin were called *Fasces*, the axe *Securis*.<sup>†</sup> The reason why they carryed both axes and rods was to intimate the different punishment that belonged unto notorious and petty malefactors. The reason why they were wrapped vp together was not onely that they might be thereby more portable, but that the anger of the magistrate might be somewhat allayed, whiles they were vnbinding. Hence because these *Fasces virgarum & securium*, did betoken honour and chieffedome in place & authority, by the figure *synecdoche* this word hath beene vsed to signifie honour and dignity, as *Fascibus suis abrogatus*, he being discharged of his magistracie or dignity.

† Plutarch. in  
Romulo.

† Plin. lib. 33.  
cap. 2.

† Ioac. Camerarius in orat.  
pro Flacco.

Immedicabile  
vulnus Ense recidatur &c.

CHAP. 3.



## CHAP. 3.

## De Senatu, &amp; quis Princeps Senatus, &amp; qui Senatores Pedarii?

**T**ouching the election of the *Senators*, the number of them, and the distinction of them into *Senatores maiorum* & *Senatores minorum gentium*, sufficient hath been delivered\* in the second division of the *Roman* people; as likewise\* in the third division hath been shewne the habit or gowne, by which the *Senators* were distinguished from the *Romane* gentlemen. Here therefore it shall be sufficient for vs to vnderstand, that every solemne meeting or consistory of these *Senators* was called *Senatus*. The foreman of them (which could bee no other then such as had been either *Consul* or *Censor*, was called *Princeps Senatus*, and his opinion was alwaies first asked. Now among those that had borne those foresaid offices it was in the *Censors* power to make whom he would foreman. The decree of this consistory was called *Senatus-consultum*. And manie times it is written with these two letters onely S. C. The place where this consistory was had they called *Senaculum*.

None was<sup>u</sup> ordinarily admitted into the place of a *Senator*, before the fivē & twentieth yeare of his age: & of those that were admitted, some were allowed to ride vnto the

Senate-house in a Curule chaire, others went on foote: \* whence these latter were called *Senatores Pedarii*. They determined their acts which they called *Senatus consulta* sometimes by departing downe their benches, & dividing the selues into sides, those which did approue that which was proposed sided with the party who did *Referre ad Senatum*. i. propose the matter vnto the Senate; the others departed vnto the contrary side, or if they came not downe at all, but sate still on the benches, then did they signifie by holding vp or beckning with their hands what side they would take. Now if the *maior* part were easie to be discerned, then they rested there, tearming that act to be decreed

per

per discessionem: and hence these & the like phrases haue taken their beginning. *In illius sententiam iturus sum*, and *Manibus pedibusq; discedere in alicuius sententiam*. i. to bee fully perswaded of ones opinion. Now if both companies were almost equall, so that the *maior* part could not easily be discerned, then did they proceed to giue their voices, & that which was thus determined was said to bee decreed *per singulorum sententias exquisitas*. i. by voices. Here wee may obserue that to those, who were favourably heard in Senate, *His Senatus dari dwebatur*; and likewise they were said, *Stare in Senatu*: as on the contrary they were said *Iacere*, whom the Senate neglected or rather cōdemned. <sup>a</sup> *Cū mihi stanti iacens minaretur*, saith <sup>b</sup> Tully. If any Senator were absent without a lawfull excuse, then was he fined, & for the payment thereof he did put in a pledge, which if he did not ransome, then did the common Treasurer *Cedere vel concidere pignora*. i. straine or seaze vpon the pledges, making common sale thereof, in which sense those two phrases are vsed, namely, *capere pignora*, & *auferre pignora*, i. to straine or seaze vpon a mans goods.

## CHAP. 4.

## De Consulibus.

**A**fter the expulsion of *Tarquinius Sup.* the last *Roman* King, all the citizens in *Rome* assembled, and concluded that the government of their city, which before was in the hand of one alone governour, called their King, should now bee divided betweene two: <sup>c</sup> whom at first (before there was any such subordinate office as a *Pratorship*) the *Romanes* called *Pratores*, *quod prairerent populo*. Not long after they were called *Iudices à indicandō*. In proccesse of time they were known by no other name then *Cōsules à consulendō populo*.<sup>d</sup> No citizen, was ordinarily created *Consull* before the forty third yeare of his age. Neither might any be chosen without speciall dispensation either of their absence out of *Rome*,<sup>e</sup> or in time of their triumph

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which

<sup>a</sup> Ascensius in Cic. l. i. epist. fam. 4.

<sup>a</sup> Cic. orat. de arusp. respons. <sup>b</sup> Rosin. Antiq. l. 7. cap. 7.

<sup>c</sup> Rosin. ant. Rom. l. 7. c. 9.

<sup>d</sup> Cic. orat. Philid. 5.

<sup>e</sup> Suet. Iul. Cæs. cap. 18.

\* Sup. p. 23.

\* Sup. p. 24.

<sup>u</sup> Mart. Philicus, in Cic. l. i. ep. fam. 1.

\* Mart. Philicus, ibid.

which was the reason that *Iulius Caesar* was glad to forgoe his triumph at that time, when hee was Consul with *Bibulus*. The signes or tokens of this *Consular* dignitie were the twelue *Lictors* carying their bundles of rodde & axes <sup>f</sup> the first month before one *Consul*, & the second before the other; as formerly they had done before their Kings. <sup>a</sup> The reason why each *Consul* had not twelue *Lictors* alwaies, was because the tyranny of the *Consuls* might then seeme to be doubled and to exceed the tyranny of the Kings: another token was a certaine chaire of estate called *Sella curnea*. i. an yvory chaire, so called from the matter whereof it was made, and <sup>b</sup> because this chaire was commonly caried about in a certaine coach or chariot, wherein the *Consul* did ride, hence from *Curru* which signifyeth a chariot, it is also called *Sella curulis*: where <sup>i</sup> note that this word *Curulis* is sometimes vied substantiue. & then it signifieth some chiefe magistracy or office amongst the *Romanes*. The gowne, by which they were distinguished from other magistrats or private men, was a certaine purple gowne, which from the great embroadred workes was called *Trabea*, and hee that did weare it was thence called *Trabeatus*, according to that, *Trabeati cura Quirini*. It will be worthy our observation to note, that the *Romanes* did date their deeds and charters in old time by naming the yeare wherein their citie was first founded; as to say *Ab urbe condita* the twentieth, thirtieth, or fortieth yeare, &c. But in proceffe of time their manner of dating was by subscribing the names of their present *Consuls*: as to say, such a thing was determined *L. Valerio, M. Horatio Consulibus*, such and such being *Consuls*. Whence *Suetonius* speaking of *Iul. Caesar*, saith, he was appointed to be *Flamen Dialis, sequentibus consulibus*. i. the next yeare following. Those alone who had borne the office of a *Consul*, not every one that was capeable thereof were said to be *Viri consulares*. <sup>k</sup> At the first those who were created *Consuls* remained in their office the space of an whole yeare, being *designati ad*

<sup>f</sup> Alex. Gen. dier. lib. 3. c. 3.

<sup>a</sup> Feneft. de magist. Rom.

<sup>b</sup> A. Gell. 1. 3. cap. 18.

<sup>i</sup> Stadiu. in Florid. 1. c. 5.

<sup>k</sup> I. Tullius in orat. Cic. pro Caelio.

*consulatum* vpon the twentieth fourth of October. <sup>1</sup> At *consulatum non inierant ante Calendas Ian. i.* the first of *January*. The reason of this chasme, or *interim* betweene their designation vnto their office, and their entry into it, was (as we may probably coniect) that the competitors might haue some time to enquire *de Ambitu*. i. whether there was no vndirect and vnlawful meanes vsed in their canvassing. In proceffe of time either by voluntary resignation or deposition or death many *Consuls* haue beene chosen in the same yeare, and they were called <sup>m</sup> *Non ordinarij, & suffecti* <sup>m</sup> *Fr Sylvius* *Consules*. At such times all their deedes were dated by the names of the two first *Consuls* which began the yeare: whence those two first, and likewise all those that continued in their office the whole yeare were called <sup>n</sup> *Consules Honorarij*, and *Consules Ordinarij*.

<sup>1</sup> P. Ramus in orat. Catil. 1.

<sup>m</sup> Fr Sylvius in Cic. Orat. pro Muren.

<sup>n</sup> Rosin. ant. Rom. 1. 7. c. 9.

# CHAP. 5.

## De Censoribus.

THE *Consuls* finding themselves encombred with so many busineses of a different nature, did by consent of the *Senate* choose two peculiar officers called <sup>o</sup> *Censores à censendo*; because they cessed and valued every mans estate, registring their names, and placing them in a fit century. For it did concerne the *Romanes* to knowe the number, and likewise the wealth of their people, to the end they might be informed of their owne strength, & so shape their course accordingly, either in vndertaking warres, transplanting Colonies, or in making provision of victuals in time of peace. A second and maine part of their office was in reforming manners to which end they had power to enquire into every mans life. This part of their autoritie was noted out vnto vs by this phrase being called *Virgula censoria*. If any one had plaied the ill husband, & neglected his farme, or left his vine vntrimmed, the *Censors* tooke notice thereof. They did *Senatu & Tribu movere*. i. They did depose Senatours, and pull downe men from a more honorable

<sup>o</sup> Feneft. de Magist. Rom. cap. 17.

able Tribe to a lesse honourable. They did punish *Capitis diminutione*. i. with losse of freedome: and that was threefold *Maxima, Media, & Minima*. The least degree of disfranchising was the pulling of a man downe from an high Tribe to a lower. *Diminutio media*, was an exilement out of the city without the losse of ones freedome. It is commonly set downe in this forme of words, *Tibi aqua, & igni interdicto*. *Diminutio maxima* was the losse of ones Tribe, city, and freedome. These *Censors* were reputed of the best rancke of Magistrats in Rome: they remained in their office an whole five yeares space ordinarily. I say ordinarily, because through the abuse of their place, the office hath been somtimes made annuall. That five yeares space the *Romans* did call *Lustrum*, because they did once in every five yeares revolution *Lustrare exercitum Romanum*, by sacrifice purge the *Romane* army. Hence we say *duo Lustra*, 10 yeares; *tria Lustra*, 15 yeares, &c. The performance of this *Lustration* belonged also vnto the *Censors*: for after the *Censors* had performed the one part of their office in registering the iust valuation of every citizens estate, they did lead a Sow, a Ramme, and a Bull three times about the army, and in the end sacrificed them to *Mars*: and thus to purge an army, is *condere Lustrum*; though sometimes *condere Lustrum* doth signifie, to muster an army: These sacrifices, as likewise all others of the like nature; that is, where in there was a Sow, a Ramme, and a Bull sacrificed, were tearmed sometimes *Suovetauralia*, somtimes *Solitaauralia*, sometimes *Taurilia*. Moreover it did belong vnto the *Censors* to farme out the tributs, imposts, tollage, &c. At the five yeares end, the acts of both their *Censors* were registred vpon bookes of record, which records were laid vp in a certaine religious house dedicated to the *Nymphs*. Whence *Cicero* speaking of *Clodius*, saith, *Qui adem Nympharum incendit ut memoriam publicam, incensis tabulis publicis impressam aboleret*.

\* Feneft. de Rom. magist. cap. 7.  
\* Pomp. Læ-  
rus de Rom  
magist. c. de  
Censor.  
\* Pancirol.  
lib. rerum de-  
pendicarum  
c. de cibi  
capiendi mo-  
do.

u Alex. Gen.  
dier. l. 5. c. 27.  
\* Pomp. Læ-  
rus de mag.  
Rom. cap. de  
Censor.  
\* Pancirol. l.  
rerum deper-  
dit. cap. de ci-  
bi capiendi  
modo.  
\* Cic pro  
Malone.

The *Consuls* by reason of their many troubles in war, having no time to administer iustice vnto the *Romane* people, did for their better help therein create two new officers for the executing of iustice, the one to examine and iudge of matters within the city between citizen, and citizen; the other to decide controversies betweene forreiners: The first they called *Pratorem urbani*, and *Pratorem maiorem*; the other *Pratorem peregrinū*, & *Pratorem minorem*: we may english them Lord-chiefe-Iustices. Where we must note that at the first there was only the *Prator Urbanus*, vntill the cases and suits in law became so many, that one was not sufficient to heare them all: byea at last the number of the *Prators* came to sixteene: namely when those two were added for the providing of corne and graine: whence they were called *Pratores cereales*; nay there were at last eighteene *Prators*, there being two others added to iudge of controversies touching seof. mēt's of trust called the *Pratores fidei commissarij*. *Caesarū duo genera sūt: alia privata, alia publica; has crimosas, illas civiles appellant*. In those cases which were private. i. touching equity and vprightnesse of any act or the restitution of any mony or goods vnlawfully detained from the right owner, it belonged principally vnto the two first *Prators* to iudge: & but vnder them vnto the *Centumviri*, who oftentimes are called by *Tully*, *Recuperatores*, & *Iudices habita*; the court *Hastacentūviris*; because one of the marks, and speciall ensignes was a speare erected vp in the place the court was kept: Those cases which were publique or criminall, as treason, murder, buying of voices in the canvassing for offices, &c. were called also, *causa capitales*, and *capitis dimicatio*; such cases wherein if the party accused had bin found guilty he was *capite damnatus*: by which phrase we must not vnderstand alwaies *Vltimum supplicium*, sed

\* Pighius x.  
quipet, comp

b Alex. Gen.  
dier. l. 2. c. 15.

\* Feneft. de  
mag. Rom.  
cap. 19.

d Fr. Sylvius  
in orat. pro  
Muren.

e I Saxonius  
in Cic. orat.  
pro S. Roscio

f Rosin. an-  
tiq. lib. 7. c. 11

g I. Saxonius  
ibid.

h Fr. Sylv. in  
orat. pro Mur

<sup>1</sup> Rosin. an-  
tiq. l. 9. c. 18.

<sup>2</sup> Rosin. an-  
tiq. lib. 7. c. 11

<sup>1</sup> Rosin. Ant  
lib. 6. cap. 18.

<sup>m</sup> Sig. de iud.  
lib. 1. cap. 7.

<sup>a</sup> Feneft. de  
Rom. magist.  
cap. 19

<sup>o</sup> P. Pellit. in  
Cic. orat. pro  
A. Cæcinna.

<sup>p</sup> Pighius Æ-  
quipet. comp.

*sed aliquando exilium: quo scilicet caput. i. civis eximitur à civitate.*<sup>1</sup> These cases at the first were heard by the kings & Consuls; afterward by certaine appointed therevnto by the people, being called from their inquisition *questores parri- cidi*. In continuance of time the examination and hearing of these publique cases was turned over vnto certaine magistrates, who because they were to continue their office a full and entire yeare (whereas the others had their authori- tie no longer then they sate in iudgement) were thence for distinction sake called *Prætores Quæstiores*, and the cases were tearmed *Quæstiones perpetuæ*:<sup>k</sup> because in these cases there was one set forme of giving iudgement perpetuallie to remaine; whereas in those private or civil causes the *Præ- tor* did commonly every yeare change the forme of giving iudgement by hanging vp new edicts.<sup>l</sup> Here we must note that these *Quæstiores Parricidarum*, otherwise called *Præ- tores Quæstiores*, had not the examination of all publique cases, but sometimes vpon extraordinary occasions either the Consuls, the Senate, or the people themselves would giue iudgement. Now as those former *Prætors* had a speare erected vp, whereby their court for private causes was knowne; so had these *Quæstiores* a sword hanged out in to- ken of their court.<sup>m</sup> *Prætorum insignia duo fuere, hasta, & gladius; illa ad iurisdictionem, hic ad questionem significan- dam.* The officers which did attend these *Prætors* were *Scribe*. i. certaine notaries much resembling the Clerkes of our Assises, their offices being to write according as the *Prætors* or chiefe Iustices did bid them, taking their name à *scribendo*. The second sort were called *Accensi ab accen- do*, from summoning, because they were to summon men to their appearance. They much resembled our bayleiffes er- rant. The third sort were *littores*, of which before:<sup>n</sup> The au- thority of the vrbane *Prætor* was so increased in time, yea his honour was such, that whatsoever hee commaunded, it had the name of *Ius honorariū*.<sup>o</sup> Others are of opiniõ that onely the *Prætors* edict was that *Ius honorariū*,<sup>p</sup> the *Præ- tor*

*tor Vrbane* being wont at the entrance into his office to collect a set forme of administration of iustice out of the former lawes and severall edicts of former *Prætors*, accord- ing vnto which he would administer iustice all the yeare following. And vnto the people might be ignorant of the contents thereof, he caused it to be hanged vp to the pub- lique view. This forme of iustice was tearmed *Edictum ab edicendo*. i. *imperando*; because thereby hee did command, <sup>q</sup> P. Pellit. in or forbid something to be done. Whence *Pellitarius* in the Cic. orat. pro place now quoted doth translate *consulum edicta*, Manda- A. Cæcinna. tory letters, that it might be distinguished from other ma- gistrates edicts. It was commonly called *Prætoris edictum*. And as *Pighius* observeth in the place aboue quoted, it was called *edictum perpetuum*; not absolutely, because the vertue thereof was perpetuall (for that expired together with the *Prætors* office, and therefore<sup>r</sup> *Tully* calleth it *legē annuam*: ) but in respect of other edicts made in the middle <sup>r</sup> Cic. in. Ver- of the year vpon extraordinary and vnexpected occasions, rin. 2. which latter sort of Edicts<sup>s</sup> *Tully* calleth *peculiaria & no- Cic. in Ver- va edicta*. Afterwarde<sup>t</sup> *Salvius Iulianus* collected an Edict rin 5. out of all the old edicts of the former *Prætors*, wherein al-<sup>t</sup> Sigon. de iudic. lib. 1. most all the whole civill law was contained and this was cap. 6. called properly *Edictum perpetuū*, because that all the *Præ- tors* ever after did administer iustice according to that E- dict by the appointment of *Hadrianus* being then Empe- rour. The edict being given out, the administration of iu- stice consisted in the vie of one of these three words, *Do, Dico, & Addico*. i. <sup>u</sup> I. Camerar. in Cic. orat. pro Flacco. *Dat actionem, Dicit ius, Addicit rē res, quā homines.* For explanation whereof we must knowe, that this worde *Addico* is sometimes *verbum Augurale*, sometimes *Forense*, sometimes a tearme of art belonging vnto the discipline of the *Augures*, and so the birds are said *Addicere*, when they shew some good and lucky token, that the matter consulted about is approved by the Gods; the opposite herevnto is *Abdicere*. Sometimes this verbe <sup>x</sup> M. Toxita in orat. pro Pub. Quint. *Addico* is a tearme of law signifying as much as to deli- ver

ver vp into ones hands, or into ones possession: whence we doe not onely call those goods that are delivered by the *Prator* vnto the right owner *Bona addita*, but those debtors also which are delivered vp by the *Prator* vnto their creditors to worke out their debt, are tearmed *serui Additi*: yea moreover because in all port-sales it was necessary that the *Prator* should *Addicere bona* deliver vp the goods sold: hence doth this word often signifie to sell, as *Addicere sanguinem alicuius*, to take mony to kill a man, to sell a mans life. Touching the reason of their name they were called *Pratores à præuendo, quoniam iure præbāt*. And y<sup>e</sup> those alone were properly tearmed *virī Pratorij*, which had borne this office, not they which were capeable thereof: in the same sence we say *Viri censorij* and *virī Edilitij*, &c.

y Fr. Matu-  
rantius. in  
Philippic. 13.

#### CHAP. 7.

*De Imperatoribus, Caesaribus, siue Augustis.*

**V**Hen *C. Iulius Caesar* had overcome *Pompey* his sonnes in *Spaine*, at his returne to *Rome* the *Senate* welcomed him with new invented titles of singular honour, styling him *Pater patriæ*, *Consul in decennium*, *Dictator in perpetuum*, *Sacrosanctus* and *Imperator*: all which titles were afterward conferred vpon *Octavius Caesar*, and all the Emperours succeeding desired to be called *Imperatores* & *Cæsares* from him. Where we must vnderstand that this name *Imperator* was not altogether vnknown before, for by that name the *Romane* souldiers were wont (even at that time) to salute their *L. Generall* after some special conquest. <sup>2</sup> These *Romane* Emperours were afterward called also *Augusti* from *Octavius Caesar* whom when the *Senate* studied to honour with some noble title, some were of minde that he should be called *Romulus*, because he was in manner a second founder of the city. But it was at length decreed by the aduise of *Manutius Plancus*, that he should be styled by the name of *Augustus*: which we may English *Soueraigne*, and they counted this a name of more re-

<sup>2</sup> *Servius Æn.*  
lib. 6.

ve-

verence and maiestie then that former name of *Romulus*, because all consecrated and hallowed places were called *Loca augusta*. The authoritie of these Emperours was very great, even as great as the Kings in former times.

#### CHAP. 8.

*De Principibus inventutis Caesaribus, & nobilissimis Caesaribus.*

**A**<sup>a</sup> custome was receaued amongst the *Romane* Emperours in their life time to nominate him whom they would haue to succeed them in their Empire: & him they called *Princeps inventutis Caesar*, and *Nobilissimus Caesar*. The like custome was practised by *Charles* the fifth Emperour of *Germany*, and so hath beene continued by his successors; namely, that one should be chosen whom they called *Rex Romanorum*, who should be so farre invested in the title to the Empire by the meanes of the present Emperour, that vpon the death, resignation, or deposition of the then being Emperour, he immediatly should succeed.

<sup>a</sup> *Rosin. ant.*  
l. 7. c. 13.

#### CHAP. 9.

*De Præfetto urbis.*

**R***omulus* for the better government of the city appointed a certaine officer called *Vrbis Præfectus* to haue the hearing of all matters or causes betweene the master and the servant, betweene orphans and their overseers, betweene the buyer and the seller, &c. Afterward in time of the *Romane* Emperours this *Vrbis præfectus* did assume vnto himselfe such authoritie, that hee would examine and haue the hearing of all causes, of what nature soever, if they were *Intra centesimum lapidem*, within an hundred miles of *Rome* (for <sup>b</sup> *Lapis* in old time signified a mile, because at every miles end a great stone in manner of a mark-stone was erected.) In the absence of the King or Consuls, he had all authoritie which belonged vnto them resigned vnto him. I am not ignorant, that some doe make this

<sup>b</sup> *Despaute.*  
crus in sua  
syntaxi.

Q

this latter kind of prefecture or Lieutenantship a different office from the former: but I should rather thinke them to be one and the same, only his authoritie to bee more enlarged in the Kings absence, and of this opinion doe I finde *Fenestella, Alexand. Neop. and Sigonius.*

<sup>a</sup> Sig. de iure Rom. l. 1. c. 20.

## CHAP. 10.

*De Decemviris legibus scribendis.*

<sup>a</sup> Fenest. de mag. Rom. cap. 14.

**F**OR the better administration of iustice the <sup>a</sup> *Romanes* appointed three men, namely those who were reputed the gravest and wisest amongst them to goe to *Athens* there to peruse the *Grecian* lawes, to the intent that at their returne, both a supply might bee made of those lawes that were wanting in *Rome*, and the other which were faultie might thereby be rectified and amended. At the returne of those three men, the *Consuls* were deposed, and both their authority and ensignes given vnto these *Decemviri*. The lawes which they brought from *Athens* were written at first in ten tables of brasse: afterward two other tables were added. At which time those lawes began to be knowne & distinguished from others by the name of *Leges 12 tabularum*. And according to those lawes iustice ever after was administered to the *Romane* people. At first by these ten men appointed therevnto, whose authority was as large even as the Kings and *Consuls*, in old time only it was annuall. one of them only had the ensignes of honor caried before the; one alone had the authoritie of convocating the *Senate*, confirming their decrees and the discharge of all state businesses. The other did little differ from private men in their habit; only when the first had ruled a set time, the others succeeded by turnes. This kind of government did not continue long in *Rome*, for in the third yeare all their power was abrogated, because of their tyranny and oppression used by them towards the *Romane* people.

<sup>a</sup> Rosin. ant. Rom. l. 7. c. 19

## Of the Romane Magistrats.

## CHAP. 11.

*De Interregia potestate.*

**A**FTER the death of *Romulus* the *Senators* divided themselves into several companies called *Decuria* committing the government of the kingdome to that *Decury* i. to those ten men vpon whom the lot fell, calling the *Interreges*: where we must knowe, that these ten did not rule altogether, but each man ruled for the space of five daies, whence <sup>a</sup> *Rosinus* calleth this magistracy *Magistratum quinqueduanum*. After that five daies government had passed through the first, then did they goe to lots to haue a second *decury* chosen, and so a third, &c. This office of an *Interrex* remained even in the *Consuls* time, so that if by some extraordinarie occasion the *Consuls* could not bee created, <sup>b</sup> then they chose one to whom alone they committed the whole government of the kingdome, and him they called *Interregem*. <sup>c</sup> *Dion. Halicar. l. 2.* <sup>d</sup> *Rosin. lib. 6. cap. 16.* <sup>e</sup> *Alex. Gen. dier. li. 5. c. 6.*

## CHAP. 12.

*De Dictatore.*

**W**HEN soever the *Romanes* found themselves encompassed with dangerous warres, or any other eminent dangers, they presently chose a *Dictator*, to whom alone was committed the authority and rule of the whole kingdome, differing from a King onely in respect of his name, & the continuance of his office. Touching his name he was so called, *quoniam dictis eius parebat populus*. His office continued but six months and at the expiration thereof if need required he was chosen againe for another six months. He was also called *Populi Magister*, in as much as none could make their appeale from him vnto the people. As soone as himselfe was established in his office hee chose a subordinate officer whom he called *Equitum magister*: his authoritie much resembled his whom they called *Urbis prefectum*: for as the *Praefectus urbi* in the absence of the

<sup>f</sup> Pighius in Tyrannif.

<sup>g</sup> Stadius in Flor. l. 1. c. 12.



the absence of the king, so this *Magister Equitum* in absence of the *Dictator* had full and vncontroleable authoritie of doing what he would.

## CHAP. 13.

*De Tribunis militum.*

<sup>1</sup>Rosin an. 119. lib. 7. c. 20. **T**Hese military *Tribunes* were of two sorts. The one had all power and authoritie, which belonged vnto the *Consuls*; and thence were called *Tribuni militum consulari potestate*. The occasion of them was this: The protectors of the commons called *Tribuni plebis* did earnestly labour that the commonalty might bee made as capeable of the consular dignitie as the Nobility: <sup>2</sup>This was followed so hot that in the end though the nobilitie would not graunt them way vnto that dignitie vnder the name of *Consuls*; yet in effect they would grant it them. Namely the *Consuls* should be deposed, and in their steed other magistrates should be chosen; part out of the nobility, part out of the commonalty, who though they were not called *Consuls*, but *Tribuni*, yet were they of *Consular* authoritie: By which they were distinguished from the other sort of Military *Tribunes*, who had power and authoritie only in matters military, and were known by the name of *Tribuni militum* without any addition. <sup>3</sup>Sometimes there was one of these 3. words prefixed *Rutuli* or *Rufuli*, *Suffecti* and *comitiati*; not thereby to intimate vnto vs any distinction of office or place, but to signify their manner of election. For if they were chosen by the *Consuls*, then were they called *Tribuni Rutuli* or *Rufuli*, because they had their authoritie confirmed vnto them by vertue of an act or law preferred by *Rutilius Rufus*, when he was *Consul*. If they were chosen by the souldiers themselves in their campe, then were they called *Tribuni suffecti*. i. *Tribunes* substituted or put in the place of another. Whence we may coiect that the souldiers were not permitted to make any election, but in time of need, when their former *Tribunes* were taken

ken from them by some violent or vnnatural death. The last sort called *Comitiati* were so called because they were chosen by the *Romane* assemblies called in Latine *Comitia*. They were named *Tribuni*, because at the first institution of them (whether we vnderstand the *Consular Tribunes*, or this latter sort) there were but three of each. In processe of time notwithstanding I find the number not only of those *Consular Tribunes*, <sup>4</sup>but of those other also to haue bene <sup>5</sup>encreased to six accordingly as the thousands in a legion were multiplied. These latter sort of *Tribunes*, in respect of their military discipline which was to see the souldiers being faultie to bee punished, wee may english *Knights Martiall*. In respect that their authoritie was over footme only, we may english them *Serians maior*: only this difference there was, to every thousand of footmen in any legion; there were as many military *Tribunes* vnder their chiefe commander called *Imperator*. But in our english armies there is but one *Seriant maior*, who alone vnder the *L. Generall* hath command over all the footmen, be there never so many thousands.

## CHAP. 14.

*De Triumviris Reipub: constituendæ.*

**T**HIS tyranny of the *Triumviratus* began by a conspiracy betweene *Augustus Caesar*, *Antonius*, & *Lepidus*. For these three vnder the pretence of revēging *Iul: Caesar* his death obtained chiefe power and authority for the space of five yeares thorough out *Rome*, <sup>6</sup>pretending that they would settle the common wealth, which at that time by reason of *Iul: Caesars* death was much out of order. Those five yeares being expired, they refused to resigne their authority, exercising excessive cruelty towards all the *Romanes* of what degree soever. <sup>7</sup>This kinde of government remained but ten years, neither ever were there any other then those three aboue named. They had power to enact any new law, to reverse any former Act without

<sup>5</sup>Fenest. de magist. Rom. cap. 21.

<sup>7</sup>Suet. Octa. Aug. cap. 27.

the consent of the *Senate*, or commons. They might proscribe and bannish any *Romane* at their pleasure; and as often as we read *de Triumviratu* simply without any adiunction, or *de Triumviratu Senatus legendi*, wee are to understand it of this, though some vpon vnſure grounds doe diioine them.

## CHAP. 15.

*De Quaestoribus ararij.*

**T**His office of the *Quaestors* seemeth not vnlike to a publique Treasurers, which collecteth the subsidies, customes, mony, yearly revenues, and all other payments belonging to any state or corporation. And hence <sup>¶ Feneſt. de Rom. mag. c. 3.</sup> *quia publica pecunia quarendae propositi erant*, they took their name *Quaestores*: Sometimes they are called *Quaestores Urbani*, to distinguish them from the provinciall *Quaestors*, which bare office in the *Romane* provinces: sometimes they are called *Quaestores ararij*, to distinguish them from those that were called *Quaestores parricidij*, or *rerum capitalium*, of which you may see more in the tract *de Pratoribus*. <sup>¶ Sig. de iure Rom. l. 2. c. 8.</sup> Lastly they were called *Quaestores ararij*, to distinguish them from the *Tribuni ararij*, i. those Martiall treasurers, or Clarkes of the band, which did receiue the souldiers pay from these city-Treasurers, and so pay it to the souldiers. The office of these city-Treasurers (then being at first but two) was to receiue al the city-accounts; to disburse at all occasions of publique expenses; to take an oath of him that the souldiers had saluted by the name of *Imperator*; that he had truly informed the *Senate* both of the number of enemies slaine, as also of the number of citizens lost: otherwise he might bar the Emperour of his triumph. Moreover whatsoever spoiles were taken in warre they were delivered vp vnto these city-*Quaestors*, and they selling them laide vp the mony in the great Treasure-house called *Aedes Saturni*.

## CHAP. 16.

## CHAP. 16.

*De Tribunis Plebis.*

**T**He *Romane* commonalty finding themselves oppressed by the wealthier sort, departed vnto the *Auentine* mount, threatening the *Romane* nobility, that they would forsake their city, and never againe adventure themselves in war for the defence thereof; vnlesse they did finde some release and eatement from those excessiue payments of vse and interest vnto their creditours: yea beside the remission of their present debts, before they would returne vnto their city again, they would haue certaine magistrats chosen, which should be <sup>¶ 1. Rosa. in Epit. rerum Rom.</sup> *sacrosancti*, i. such as might not be hurt or violently vsed, not so much as in words: and if any had violated that law, whereby they were made *Sacrosancti*, then was he accounted *homo sacer*, i. an excommunicate person, or such an one whose soule should be vowed vnto some God; inſomuch that if any after had killed him, he should not be lyable vnto iudgement: <sup>¶ Alex. Gen. dier. l. 6. c. 14.</sup> *quia illius anima dijs deuota amplius humani commercij non fit*. To these magistrats the protection of the commons was committed, who because they were at first chosen out of the *Military Tribunes*, therefore did they alwaies retaine the name of *Tribunes*, being called that they might be distinguished from the others, *Tribuni Plebis*, Protectours of the commons. At the first institution of them they were in number but 2, as <sup>¶ 7. Rosa. ant. lib. 7. c. 23.</sup> some haue thought: Others say fve: afterward (as it is yeelded by al writers) they encreased vnto tē. Their authority at first consisted chiefly in this, that they had power to hinder any proceedings in the *Senate*, which they thought might proue preiudiciall vnto the commons; so that they had not authority to enact any new decrees, as afterward by abusing their authority they did. <sup>¶ Pighius in suo Tyranni fug. Pomp. L. 2. c. 2.</sup> *Sed eorum auctoritas magis in intercedendo, quam iubendo*. And hence was it that in old time these protectours of the commons were not permitted to come into the *Senate*: but they sate with out.



out at the dore, whether whatsoever was determined with in the Senate was sent vnto them, to be perused by them, and if they did approue it, then did they subscribe a greate *Romane* T being the first letter of this word *Tribuni*.<sup>d</sup> The houses of these Tribunes stood open night and day, as a comon refuge or place of succour for all that would come; neither was it lawfull for them to bee absent out of the towne one whole day through out the yeare.

<sup>a</sup> Rosin. ant. lib. 7. cap. 23.

<sup>e</sup> Pighius in suo Tyrannifug.

#### CHAP. 17.

##### *De Aedilibus, & Praefectis annona.*

**V**VE may read of three sorts of *Romane* magistrates called *Aediles*; the two first had their names *ab aedibus curandis*, having in their charge to repaire both temples & private dwelling houses which belonged vnto the city. The first sort were called *Aediles curules*, *a sella curuli*, from the chaire of state, wherein it was permitted them to ride; and these were chosen<sup>f</sup> out of the *Senators*. The second sort were called *Aediles plebey*, and they were added vnto the former at the earnest suit of the commons, they being to be chosen out of them. Where we must note that they were not so added that both sorts should rule at one & the selfe same time,<sup>g</sup> but that the *Curules* should rule the one yeare, and the *Plebey* the other. To these *Aediles* it did belong, beside the reparation of temples and private houses, to looke vnto the weights & measures in comon sales: for they had power to examine *Actiones redhibitorias*, that is, such actions, by vertue of which he that had sold any corrupt or sophisticated wares, was constrained to take them againe. Moreover they had the charge of the publique conduits or water conveyances, of provision for solemne plaies, &c. Of the third sort there were also two, who were in a manner *Clarks* of the Market. <sup>h</sup> For vnto them belonged the looking vnto the victuals sold in the market, and corne: Whence they were called by them *Aediles cereales*; & <sup>i</sup> by the *Greekes* *ἐπιτορνοί*. This office, for

<sup>f</sup> Philox. in l. 2. Cic. epist. fam. 10.

<sup>g</sup> Alex. Gen. dicit. l. 4. c. 4.

<sup>h</sup> Alex. Gen. Ibid.

<sup>i</sup> Pighius in suo tyrannifug.

ought that can bee collected out of those that treat of it, differeth but little from his, who the *Romanes* called *Annona Praefectum*; onely this, the *Aediles Cereales* were *magistratus ordinarij*; the *Praefectus extraordinarius*, namely, such as was chose only in time of extraordinary dearths; <sup>k</sup> he having for that time larger authority then those ordinarie clarkes of the market. For as it appeareth by *Rosinus* in the place now quoted, this *Praefectus* had power of himself to examine all such cases or questions as should arise touching the dearth: as suppose we hoarding of corne, forestalling the market, &c.

#### CHAP. 18.

##### *De Triumviris.*

**B**ESIDE that *Triumviratus Reip: constituenda*, of which we spake before, there were divers kinds of *Triumvirates*; namely *Triumviri capitales*, three high Sheriffes, who had the charge of prisons and were to see malefactors punished: for which purpose eight *Lictors* did attend them. There were also <sup>l</sup> *Triumviri Mensarij*, three mē, <sup>1</sup> Alex. Gen. we may tearme them Bankers, who had autoritie to pay out of the common treasury poore mens debts. Sometimes there were appointed five to this office, whence they were called also <sup>m</sup> *Quinquenviri Mensarij*, both being called *Mē-* <sup>m</sup> I. Camerar. *sarij* from *Menja*, a table, whereon they told their money. Another sort of *Triumviri* there were appointed to presse souldiers, whence they were called *Triumviri conquirendi iuvenes idoneos ad arma ferenda*. Wee read also of certaine *Triumviri*, which were elected as chiefe captaines to guid and conduct the people in transplanting colonies; and thence were they named *Triumviri Coloniae deducendae*; but sometimes for this purpose they elected seaven, ten, or twentie, and so named them *Quinquenviri*, *Septemviri*, *Decemviri*, and *Vigintiviri Coloniae deducendae*. Three other sorts of *Triumviri* remaine, which were offices of small account; as the *Triumviri monetales*, three Masters

of the Mint, who thence were called *Triumviri A. A. A. F. F. i. Auro, Argento, Aere, Flando, Feriundo*; for they had the charge of coyning the mony. Secondly, *Triumviri valetudinis*, Three Pest-men, which were to oversee those that lay infected with any contagious sicknesse. Thirdly, <sup>n</sup> Alex. Gen. <sup>n</sup> *Triumviri nocturni*, three Bell-men which were to walke dies. l. 3. c. 16. the towne at night, and to giue notice of fire.

## CHAP. 19.

*De praefectis Aerarij.*

**A**ugustus Caesar desiring for the better safetie of the citie to maintaine many bands of souldiers, which should alwaies bee in readinesse for the defence of the citie, desired of the citie an yearly subsidie for the maintenance of those souldiers: but being denied it, hee built a certaine Treasure-house, which hee called *Aerarium militare*, whereinto he cast his mony for himselfe, & *Tiberius*; and promised to doe so every yeare. Afterward when hee saw the Treasury not to be enriched enough, either by that mony which himselfe bestowed, or by the contributions of others, he appointed that the twentieth part of all inheritances and legacies (except it were to the next of the kin, or to the poore) should fall vnto this Treasury. For the charge & custody hereof he appointed three of those souldiers, which alwaies attended about him for the safeguard of his person, calling them *Praefectos Aerarij*.

## CHAP. 20.

*De Praefecto pratorio.*

**A**LL captaines and governours to whom the rule of an army belonged were in ancient time called *Praetores*; This word *Prator* signifying then three chiefe officers among the *Romanes*: First a *Consul*; secondly a L. chiefe Iustice; thirdly a L. Generall in warre; all of them being called *Praetores, quasi Praetores quoniam iure & exercitu praebant*. Answerable to which threefold acception this

<sup>o</sup> Pancirol. in notitiam imper. orient. cap 5.

<sup>p</sup> Pighius in Aequiper. compos.

this word *Pratorium* hath three severall significations: sometimes it signifieth a Princes palace or manour house; sometimes a great hall or place where iudgment was wont to be given; and lastly the L. Generall his pavilion in the campe; <sup>9</sup> from which last signification it is that those souldiers that gaue attendance about that pavilion for the guard of their captaines person are sometimes called *Milites Pratoriani*, sometimes *Cohors pratoria*; <sup>r</sup> and hee to whom <sup>Fr. Sylvius</sup> the oversight of these souldiers was committed was thence in *Catil. 2. 4. m.* called *Pratorio praefectus*.

## CHAP. 21.

*De Advocato fisci.*

**F**OR the right vnderstanding of this office wee must first note a difference betweene these two wordes, *Aerarium*, and *Fiscus*. *Aerarium* was a common treasury belonging vnto an whole state or corporation, whence all publike and commo expences are to be supplied. *Fiscus* was the Kings or Emperors private coffers: it may be englisht the Kings Exchequer. The keeper thereof was called *Advocatus Fisci*. There are many other pettie offices with in the citie, which I haue purposely omitted, because there is but feldome mention of them in old autors; and as oftē as they are mentioned, their names doe explaine their office.

## CHAP. 22.

*De principis magistratibus provincialibus.*

**O**ver the Provinces at first ruled certaine magistrats sent from *Rome* by commission from the *Romane* Senate, called *Pratores*, whose office was to administer iustice vnto the Provinciaall inhabitants: yea, and if occasion served, to make warre also vpon their enemies; & this was the reason that the number of the *Prators* did so increase alwaies, namely accordingly as the number of

Provinces did encrease. The warres and tumults in the Provinces sometimes were so great, that the *Pratour* was not sufficient both to manage warre and execute iustice: whereupon the *Senate* thought fit to send another magistrate into the Provinces, whom they called a *Consul*, because properly the managing of warre belonged vnto the *Consul*. So that there were at first two ordinary Provinciall magistrates, a *Consul* to manage warre, and a *Pratour*, or L. chiefe iustice to sit in iudgement. And if these two by a second grant from the *Senate* did continue in their office aboue the space of an yeare, then were they called *Proconsules*, & *Propratores*. But in processe of time this custome was altered. For then none could bee *Proconsuls*, but those alone who had beene *Consuls* in *Rome*; neither could any be *Propratours*, which had not beene *Prators* at *Rome*. Their manner being, that the next yeare after the expiration of their offices in *Rome* they should departe into some certaine province to beare the same offices againe being not called *Consules* or *Pratores* as before, but *Proconsules* & *Propratores*; and for this cause alwaies, so soone as the *Consuls* had beene created, the *Senate* did appoint certaine Provinces for the *Consuls*, which being appointed the *Consuls* did either agree between themselves, who should go to the one, who to the other; and that was termed *comparate provincias*; or else they did decide the question by lots, and that was termed *sortiri provincias*; howbeit sometimes the *Senate* did interpose their authority, and dispose the same. Vnder the Emperours the governours of some Provinces were appointed by the *Senate*, & the people, and those were called *Proconsules*, and the Provinces, *Provincia Consulares*, others were appointed by the Emperours, and they were called *Propratores*, and the Provinces *Pratoria Provincia*. For all this, which hath bin noted touching the Provinciall Magistrates, it is almost

<sup>f</sup> Alex. Gen.  
dier. l. 3. c. 3.

<sup>g</sup> I. Camerar.  
pro L. Flacco

<sup>u</sup> Rosin. An-  
tiq. l. 10. c. 24

verbatim translated out of <sup>u</sup> *Rosinus*. To which we adde this, namely that every *Proconsul* and *Proprator* did vsually

ly chioose a Lieutenent such a one as should bee assistaunt vnto him in matters of government, whom they called *Legatum*. So that this word *Legatus* signified three severall *Magistrates* amongst the *Romanes*, two whereof may be proved out of *Sigonius*; first that it signified such a Lieutenent or L. Deputy vnder a *Proconsul* or *Propratour* in a Province; secondly, that it signified such a one as is imployed in the delivery of a message or embassage from one Prince or State to another: we commonly call them *Embassadors*. <sup>2</sup> Lastly it signified a Lieutenent or chiefe captain in warre, whose place was next vnder the L. General. Moreover every *Proconsul* and *Propratour* had with them certaine Treasurers, called *Quaestores Provinciales*. These provinciall treasurers <sup>a</sup> were chosen by the *Romane* people commonly, namely such a number as the number of Provinces did require. After the election they between themselves did cast lots who should go vnto the one, who vnto the other Provinces: <sup>b</sup> sometimes extraordinarily by vertue of speciall Act or decree this or that speciall man hath obtained this or that Province without any lottery. By the way we must note, that all Provinciall *Quaestors* could not be called *Proquaestores*, as all Provinciall *Consuls* and *Prators* were called *Proconsules* & *Propratores*. <sup>c</sup> For these only were called *Proquaestores*, which did succcede these Provinciall *Quaestors*, when they did either die in their office or depart out of the Province; no successor being expected from *Rome*: at which times it was lawfull for the *Proconsul* or *Propratour* to chioose his *Proquaestor*. Moreover there were beside these *Legati* & *Quaestores* <sup>d</sup> other military offices; such as are the *Tribuni militum*, *Centuriones*, *Præfetti*, *Decuriones*, together with other inferiour officers, as their Secretaries, Baylieffes, Cryers, Serjants, and such like.

<sup>\*</sup> Pomp. L. 2.  
tus de magistr.  
Rom.

<sup>1</sup> Sig. de iure  
Prou. l. 2. c. 2.

<sup>2</sup> Rosin. ant.  
Rom. l. 10. c. 7.

<sup>a</sup> Sig. de iure  
Prov. l. 2. c. 3.

<sup>b</sup> Sig. ibid.

<sup>c</sup> Rosin. ant.  
Rom. l. 7. c. 45

<sup>d</sup> Sig. de iure  
Prov. l. 2. c. 2.



## Lib. 3. Sect. 3.

## Of the Romane Lawes.

## CHAP. I.

## De Legibus.



Aving spoken of the civill Magistrates, wee will now also descende vnto the civill law: where first we will note among other differences betweene *Ius* and *Lex* principally these. First *Lex* signifieth only the law, but *Ius* signifieth also that place, wheresoever the law or iustice was administred; not only if it were administred out of the tribunall in the *Comitio*, or great hall of Iustice, which was tearmed by the lawyers *Agere pro Tribunali*: but also if it were administred in a private house, or in ones journey; so that it were by a lawfull Magistrate, and out of the curule chaire; and this was tearmed by the Lawyers, *Agere de Plano*: and hence is it, that *In ius vocare* signifieth to cite one into the court. Secondly *Lex* signifieth onely the written law, but *Ius* signifieth equitie; so that *Ius permaneat semper, nec unquam mutetur*: *Lex verò scripta sapius*. Notwithstanding these two words are vsed promiscuously one for the other; & therefore leaving all curious differences between those words (whether the *Romane* lawes were truly *Iura* or *Leges*) thus much wee may obserue, that the laws vsed among them were of three sorts; either they were such as were made by severall *Romane* kings, and afterward collected & digested into a method by *Papirius*,<sup>c</sup> from whom it was called *Ius Papirianum*:  
or

<sup>a</sup> Sig. de iud. lib. 1. cap. 7.

<sup>b</sup> Fr. Sylv. in orat. pro Mil.

<sup>c</sup> Fr. Sylv. in epist. virorū illust. l. 5. ep. 11

## Of the Romane Lawes.

or they were such as the *Decemviri* brought frō *Athens*, and were called *Leges 12 tabularum*: or lastly they were such as the *Consuls*, the *Tribuni Plebis*, & such Magistrates did preferre, whence every severall law bore the name of him or them that preferred it. My purpose is to explaine on ly this latter sort, and that not all of them, but such alone as I haue obserued in *Tully*, and that chiefly in his orations. My proceeding shall bee first to shew the diuers kindes of iudgements; and then to descend vnto the lawes themselves, beginning with those which shall concerne the *Romane* religion, and then proceeding to the others, which concerne the common wealth.

## CHAP. 2.

## De Iure publico &amp; privato.

THE Cases to be decided by the law were either public like or private; & accordingly were the iudgemēts, *Vel privata, in quibus ius suum privatus quisq; persequabatur: vel publica, in quibus iniuria que reip. facta erat vindicabatur*. The private (as we obierved before) belóged vnto the *Pratori urbano & peregrino*. i. the L. chiefe Iustices, who did either giue iudgement themselves, and then were they said *Iudicare*; or they did appoint others to sit in iudgement, and then were they said *Iudicium dare*: Yea in their absence there were ten called *Decemviri Stitibus iudicandis*. i. *Super lites iudicandas*, who in the same manner, as the *Prator*, might either giue iudgement themselves, or appoint others; for they were even in one place and in stead of *Prators*. Those which either the *Prator* or the *Decemviri* did appoint to debate the cases vnder them, were taken out of the *Centumviri*. i. out of certaine Commissioners chosen for that purpose; namely three out of every Tribe or ward; so that in all the number of them amounted vnto an hundred and five, but in round reckoning they went for an hundred; and from a certaine speare that was wont to be erected vp in token of this court, hence was the  
Court

<sup>d</sup> Sig. de iure Rom. l. 2. c. 18.

<sup>e</sup> Sig. de Iud. lib. 1. cap. 7.

<sup>f</sup> Rosin. ant. l. 7. c. 29.

<sup>g</sup> Alex. Gen. dier. l. 3. c. 16.

<sup>h</sup> Pet. Ramus in 2<sup>a</sup> de lege Agrar.

<sup>1</sup> Sig. de iud. lib. 1. c. 28. <sup>1</sup> Court called either *Pratoria Decemvralis*, or *Centumvralis hasta*. In some cases their forme of acquittance was thus, <sup>k</sup> *Secundum illum litem do*; whence <sup>1</sup> Tully saith, *Quominus secundum eos lis datur, non recusamus*. i. wee doe not deny, but they may be acquitted. Those that were cast in their suit, were said *Lite vel causa cadere*. The publique Cases belonged ordinarily (except the *Consuls*, the *Senate*, or the people did interpose their authoritie) vnto those who we called *Pratores Quaestores*. Some haue <sup>m</sup> thought them to be the same with those, whom *Rosinus* calleth *Iudices Quaestionum*, and that I thinke not altogether vpon vntrue grounds: first because most of these publique cases, which they tearmed *Quaestiones*, had their <sup>a</sup> severall *Prators* to enquire them; whence they were called *Quaestores*, & may in my opinion be called *Iudices Quaestionu*, especially seeing that those which would haue them bee different officers, cannot well shew the difference of their offices. Now as the *Urbane Prator* had an hundred commissioners vnder him: so had these *Pratores Quaestores* certaine Iudges chosen <sup>o</sup> by the *Urban* or *forreigne Prator*, when he tooke his oath, and that not according to his pleasure as many as hee would, or whom he would, but sometimes more, sometimes fewer, sometimes only out of the *Senators*, sometimes only out of the order of *Romane Gentlemen*, sometimes out of both; sometimes also out of other orders, <sup>p</sup> according as the law appointed, which oftentimes varied in those points. The Iudges how great soever the number was, <sup>q</sup> were called *Iudices selecti*, and were divided into severall companies called *Decuria*. These iudges were vpon any citation from any of the *Prators*, to give their assistance in the Court vpon the day appointed by the *Prator*. Now the manner how they did proceed in their iudgement followeth in the exposition of one of the lawes, and therefore I will referre the reader thither. Only let him by the way vnderstand, that whereas *Tully* is quoted in every law, it is not so much for the prooffe of the law, as to signifie, that he in that place

ma.

maketh mention thereof. For the prooffe of the lawes I referre the Reader to *Rosinus* and *Sigonius*: touching the expositions my marginall quotations doe proue sufficiently.

## CHAP. 3.

*De Eegibus religionem spectantibus.**Lex Papiria.*

**L** *Papirius Trib. Pleb.* established a law touching the consecration or hallowing of places, that it should be vnlawfull for any to consecrate either houses, grounds, altars, or any other things *Iniusu plebis*. i. without the determination of the *Roman* people in their assemblies called *Comitia Tributa*, which determination was alwaies tearmed *Plebiscitum*.

*Roscia Lex.*

*L. Roscius Otho Trib. Pleb.* preferred a law, that whereas heretofore the *Romane Gentlemen* did stand promiscuously with the Commons at their theatriall shewes, now there should bee fourteene benches or seats built for those *Romane Gentlemen* which were worth *H-S. quadringenta*. i. about 3000<sup>l</sup> of our *English* mony. As for other Gentlemen whose substance was vnder that rate, they had a certaine place allotted them by themselves, with a punishment imposed vpon them, if they offered to come into any of those 14. benches.

Here we must note that this character *H-S* standeth for a silver coine in *Rome* called *Sestertius*, and is by *Rosinus* in this place improperly vsed for *Sestertium*. For this character *H-S* is by our Printers false printed, the true character being *LL-S* signifying *duas Libras* (as the the two *LL* doe intimate) and *Semissem*, which is intimated by the letter *S*. Where if *Libra* doth signify no more then the *Romane* coyne called *AS*, then is this opinion touching the character *LL-S* easie to be confirmed. For diuers authors rendering a reason of the name *Sestertius*, say it was so called

S

led

Cic. pro Domo.

Cic. Philip. 2. Item pro Muræ.

Fr. Matur. in Philip. 2.

Chr. Hegedorphinus in Verrinam 1.

led *quasi Semitertius*. i. such a coyne as containeth *Duos solidos asses & semissem*. This *Sestertius*, was such a common coyne among the *Romanes*, that *Nummus* and *Sestertius* became at length one to be vsed for the other.<sup>u</sup> *Mille huiusmodi sestertij vel nummi faciunt unum sestertium in neutro genere, & conficiunt plus minus viginti quinque coronas.* According to which rate *quadringenta sestertia* amounteth to 3000<sup>l</sup>. and every particular *Sestertius* is according to this rate, in value about three halfe-pence farthing q.

*Clodia lex.*

*Publius Clodius Trib. Pleb.* made a law, by vertue whereof the priest called *Pessinuntius sacerdos* (from the place where he did first exercise those holy rites in the honour of the mother Goddesse) should bee deprived of his Priesthood, and the Temple built in the honour of this Goddesse should be bestowed vpon *Brotigarnus* of Gallo-Gracia.

*Domitia lex.*

*Cn. Domitius Ahenobarbus Trib. Pleb.* enacted a law, that the Colleges of priests should not as they were wont, admit whom they would into the order of Priesthood: but it should be in the power of the people. And because it was contrary to their religion, that Church-dignities should be bestowed by the common people, hence did he ordaine that the lesser part of the people, namely seventeene Tribes should elect whom they thought fit, and afterward hee should haue his confirmation or admission from the College.

*Lex incerti nominis de vacatione sacerdotum.*

*Cicero* in his orations mentioneth a law (not naming the author thereof) whereby the priests were privileged from their service in all warres, except onely in uproares or civill tumults. \* And these privileges were termed *Vacationes*.

CHAP. 4.

CHAP. 4.

*De Civitate, & iure civium Rom.*

*Porcia lex de civitate.*

*M. Porcius Trib. Pleb.* established a law, that no magistrate should beate any *Romane* citizen with rodds. *Cic. pro Rabirio, & læpè aliàs.*

*Lex Sempronia.*

*C. Sempronius Gracchus Trib. Pleb.* preferred a law, whereby he disabled the magistrate from punishing any *Romane* citizen, either with rodds, or with his axe. i. with death, without the allowance of the people. Secondly by vertue of this law, if any magistrate did condemne any *Romane* citizen *Indictâ causâ*, hee should bee liable to the iudgement and censure of the people. A third clause to this law was, *Ne quis coiret, conveniret, quo quis indicio publico circumveniretur Indictâ causâ.* He was said to be condemned *causâ indictâ*, which was condemned before hee had spoken for himselfe. Although *Indicere pro non dicere, si- cut & invidere pro non videre vix reperitur; tamen indictum & invisum, pro non dicto, et non viso sæpè reperiuntur.*<sup>2</sup> They were properly said *Coire*, which did worke vnder hand against a man, that he might be condemned; wee may translate it in this place, to *Conspire*.<sup>a</sup> The verbe *Circumvenio* doth commonly signifie as much as *Circumscribo*, to de- ceave or cheat one: but in this place, to oppresse one with false iudgement, procured by briberie or confederacy. *7 P. Ramus in orat. pro Rabirio. 2 Fr. Sylv. in orat. pro Cluentio. a I. Camerar. in orat. Cic. pro L. Flacco b Fr. Sylv. in ora. ro Cluentio.*

*Lex Papia de peregrinis.*

The privileges of the *Romane* citizens became so great, that almost all the inhabitants of the confederate nations, would forsake their owne dwellings, & vse meanes to become free denisons in the *Romane* city; insomuch that the Embassadors of the Allies, & associates, did grieve much and complaine of the losse of their inhabitants: wherevpon a law was made by *Papius*, that all forreiners & strange commers should bee expelled out of the city. To the same effect was *Lex Iunia*, and also *Licinia Muria de peregrinis*: *Cic. pro Balbo Cic. offic. l. 3.*



the first being preferred by *Mar. Iunius Pennus*: the second by *L. Licinius Crassus*, and *Q. Mutius Scavola*.

*Servilia lex de civitate.*

Cic pro Balbo.

*C. Servilius Glaucia* preferred a law, *Vt si quis Latinus*, If any of the Latine associates could proue an action of bribery against a *Senatour*, then should he be made a free-man of the city.

e Sig. de iure Ital. l. 1. c. 2.

*Quis Latinus*] Here we will obserue with *c Sigonius*, that the Latine people were not alwaies called *Latini & Italici*: Sed & *socij*, & *Latini socij*; & *socij nominis Latini*, & *socij nomenq. Latinum*, & *socij ab nomine Latino*, & *socij ac Latium dicti sunt*.

*Sylvani & Carbonis lex de Peregrinis.*

Cic. pro Archia.

*Silvanus* and *Carbo* being *Tribuni Pl.* preferred a law, *ut qui federatis civitatibus adscripti essent, si tum, cum lex ferebatur, in Italia domicilium habuissent, ac sexaginta diebus apud prætorem professi essent, cives Romani essent.*

d Fr. Sylv. in orat. pro lege Manil.

*Adscripti*] For the right vnderstanding hereof, we must note, that there were <sup>d</sup> two sorts of citizens; some *cives natii*. i. citizens by birth; others *civitate donati*. i. citizens by donation, or gift: who because they were added vnto, and registred with the first sort of citizens, were thence called *Adscripti cives*.

e P. Ramus in or. Cic. Agrar. 2.

*Professi apud Prætorem*.] This verbe *profiteri* is sometimes *c Comitiale verbum*, and signifieth as much as *profiteri nomen*. i. to tender ones name vnto a magistrate: & this construction it beareth in this place.

*Cornelia de Municipiis.*

Cic pro Domo.

*L. Cornelius Sylla* preferred a law, that all *Municipall* states should loose their freedome in the *Romane* city, and also their privilege of having commons in the *Romane* fields.

*Gellia Cornelia lex.*

Cic. pro Balbo.

*L. Gellius Publicola*, and *Cn. Cornelius Lentulus* being Consuls decreed a law, that all those private persons vpon whom *Cn. Pompeius* in his wisdom should bestow the freedome of the *Romane* citizens, should ever be accounted free denisons.

CHAP. 5.

*De legibus ad comitia spectantibus.*

*Ælia lex.*

*Q. Ælius Patus* asked a law in time of his Consulship, *Cic. multis in ut quoties cum populo ageretur*. i. as oftē as any *Romane* locis, magistrate did assemble the people to giue their voices, the *Augures* should obserue signes and tokens in the firmament, and the magistrates should haue power *obnunciandi*, & *intercedendi*. i. to gaine say and hinder their proceedings. *Ageretur cum populo*.] Here we may note the difference betweene these two phrases, *Agere cum populo*, and *Agere ad populum*. <sup>f</sup> He was said *Agere ad populum*, whosoever made any speech or oration vnto the people, & this might be done vpon any day indifferently: But then onely was it said *Agere cum populo*, when the people were assembled to the giving of their voices by a lawfull magistrate, and this could not be done, <sup>g</sup> but vpon one of those daies, which they called *Dies Comitiales*.

*Fufia lex.*

*Pub. Furius sive Fufius Philus* being *Consul* ordained a law, that vpon some certaine daies, although they were *dies Fasti*. i. Leet-daies, yet no magistrate should summon an assembly.

*Clodia lex.*

*P. Clodius Trib. Pl.* abrogated both those former lawes, *Cic. pro Sexto*, making it vnlawfull to obserue signes & tokens in the heavens, vpon those daies when the *Roman* people were to be assembled: And secondly, making it lawfull to assemble the people vpon any Leet-day whatsoever.

*Gabinia lex.*

At first for many yeares the *Romane* people in their assemblies did suffrage *Vivâ voce*: at which time many of the inferiour sort, gaue their voices contrary to their wils, fearing the displeasure of those that were of higher place. For the better help in this point, *Gabinus* asked a law, that the



people in all their elections might not suffrage *Vivâ voce*, but by giving vp certaine tablets, the manner wherof hath beene formerly shewen: whence both this, and all other lawes tending to this purpose haue beene called *Leges tabellariae*.

*Cassia lex.*

Cic. in Lælio After *Gabinus*, *Cassius* also preferred a law, that both the Iudges in their iudgements, and the people in their assemblies should suffrage by rendring such tablets: <sup>h</sup> but <sup>h</sup> *Rosin. an. q. lib. 8. c. 3.* this is to be vnderstood only of those assemblies by wards called *Comitia Tributa*: wherein they treated of mulcts & mercements.

*Cælia lex.*

Cic. 3. de leg. *Cælius Trib. Pl.* established a law, that not onely in mulcts and mercements, but also *In perduellionis indicio*. i. in taintments of treason against any person of state (namely such as were *sacrosancti*) or against the common weale, this *Tabellary* libertie should haue place, when the people should iudge thereof.

<sup>1</sup> *Cælius Sec.* *In perduellionis ind.]* <sup>1</sup> This word *perduellis* doth signifie an enemy vnto the state, a traytour: & hence commeth this word *perduellio*, signifying not onely the crime of treason, but the punishment also due therevnto, <sup>k</sup> *Si crimen quod erat gravissimum inter crimina, nempe imminuta maiestatis: si pœna, qua erat acerbissima, nempe mortis.*

*Papiria lex.*

Cic. de leg. 3. *C. Papirius Carbo Trib. Pl.* perswaded, that not only in their elections, but in the proposall of their laws also, this suffraging by tablets should be vsed.

*Sempronia lex.*

Cic. multis in locis. *C. Sempronius Gracchus Trib. Pleb.* preferred a law, that the Associates of *Latium* should haue as great right of suffraging, as the *Romane* citizens.

*Manilia lex.*

Cic. pro Mur. *C. Manilius Trib. Pl.* preferred a law, that all those who were *Libertini*, in what tribe or Ward soever, should haue the right of suffraging.

CHAP. 6.

## CHAP. 6.

*De Senatu & Senatoribus.**Claudia lex.*

**Q**. *Claudius Trib. Pleb.* perswaded a law, that no *Senator* <sup>Cic. Verrin. 7</sup> or *Senators* father, should haue any ship, which should conteine aboue three hundred of those measures called *Amphora*, deeming that sufficient for the transportation of their corne from the *Romane* fields. Secondly, by this law the *Senatours* were forbidden the vse of trading.

*Amphora.* <sup>1</sup> *Alexander Neopol.* obserueth two sortes <sup>1</sup> *Alex. Gen. dier. l. 2. c. 20.* of these measures, namely, *Amphora Italica* containing 2. *Urns*; and *Amphora Attica* containing 3. *Urns*: euerie *urna* contained two gallons and a pottle. This in probability is vnderstood of the *Italian Amphora*.

*Tullia lex.*

When as a custome had growne, that many of the *Senatours* having by speciall favour obtained *Liberam legationem*, vpon all occasions would abuse that their authoritie, procuring thereby their private gaine, and the encrease of their owne honour; then *M. Tullius Cic.* being *Consul* laboured, quite to take away these kinds of embassages: which though he could not effect, yet thus farre he prevailed; That whereas in former times this *Libera legatio* being once obtained, was never (not through a mans whole life) taken from him againe: yet afterward this authority should never be granted to any longer, then the space of one yeare.

*Legatio libera.* <sup>2</sup> We may obserue in ancient autors three severall kindes of embassages. The one, which is a message sent from the Prince or chiefe governours of one country vnto another, and that is expresse commonly by this one word *Legatio*, without any addition therevnto, sometimes it is called *Legatio mandata*. The second, which is whē one purchaseth the title of an Embassadour, thereby the more honourably to performe some vow made, whence it was cal-

called *Legatio Potina*. The third is the office or title of an Embassadour, granted vpon speciall favour vnto a Senator, that he might with the greater authority prosecute his private suits in law, or gather vp his debts in that province whither he went: this last was tearmed *Legatio libera*. All three sorts are briefly touched by *Toxilla*.

<sup>m</sup> M. Toxilla  
in orat. Phil. 1.

## CHAP. 7.

## De Magistratibus.

## Cornelia lex.

Cic. in Pison.

**L.** *Cornelius Sylla* being *Dictator*, made a law, that all such as would follow him in the civil warre, should be capeable of any office or magistracie before they came vnto their full yeares. [A second part of this law was, that the children of such as were *proscripti*, should bee made vncapeable of the *Romane* magistracies.

Before they came to their full age.] For *L. Ullius* preferred a law, whereby he made such as were vnder age, to be vncapeable of the city preferments: and those he accounted vnder age, who had not attained vnto that number of yeares, which he had prescribed each severall office: and this law was tearmed *lex annalis*.

<sup>a</sup> P. Ramus in  
Agrar. 2.

*Proscripti*.] Those were tearmed *proscripti*, who were not onely exiled and banished their country, but also their goods were seized vpon and confiscated. *Quoniam eorum nomina in publico scribebantur, hinc proscripti dicebantur.*

## Hircia lex.

Cic. Phil. 13.

*A. Hircius* made a law, that all those that followed *Pompey*, should be made vncapeable of all places of office.

## Cornelia lex.

Cic. Philip. 2.

*L. Cornelius Sylla* finding the *Pratores* .i. the *L.* chiefe Iustices not to giue sentence alwaies according to equitie, yea sometimes to goe quite contrary to their owne Edict, made a law, that every *L.* chiefe Iustice should administer iustice according to that his first Edict, hanged vp at the be-

beginning of his office. An additiō vnto this law was, that the *L.* chiefe Iustice should not be absent out of the citie above ten daies.

## Clodia lex.

In former times it was lawfull for either of the *Censors* to censure whom he pleased, and how hee pleased, except his fellow *Censor* did plainely gainsay it, and make opposition therein. But many abusing this their authoritie, *P. Clodius Trib. Pl.* made a law, that the *Censors* should not overskip any in their election of *Senators*; neither should they brand any with disgrace, except such as had been accused vnto them, and bene condemned by them both.

## Valeria lex.

The office of a *Dictator* at the first institution continued but six months space, vntill *L. Valerius Flaccus*, being *Interrex* in the vacancy of the *Consuls* preferred a law, that *L. Cornelius Sylla* should be a perpetuall *Dictator*.

## Cornelia lex.

*L. Cornelius Sylla* in the time of his *Dictatorship*, did by vertue of a law preferred by him clip the authoritie of the *Tribuni Pl.* disabling them of bearing any office after the expiration of their *Tribuneship*, taking away their authoritie of preferring lawes, of vsing any solemne speech or publike oration vnto the people, of hearing appeales, of hindring any statute or decree tending to the hurt of the populacy.

## CHAP. 8.

## De legibus.

## Cæcilia Didia lex.

**Q**: *Cæcilius Metellus*, and *Titus Didius* being *Consuls*, forbad, that *Una rogatione*.i. in one and the same bill many things should be proposed vnto the people: least by that meanes, the people by graunting the whole bill might graunt something which they would not; or in denying the whole bill might deny some particular clause,

Cic. Philip. 5.

T

which

which by it selfe they would haue accepted. Moreover these two *Consuls* ordained, that before a law should be asked in the assemblies it should bee promulged. i. hanged vp to the publique view of the people three market daies.

*Iunia Licinia lex de trimundino.*

Cic. Philip 5. *Iunius Silanus* and *L. Licinius Murena* being *Consuls*, established that law of *Cæcilius* and *Didius*, annexing a more severe punishment for the breakers thereof.

*Clodia lex de intercessione.*

Cic. pro Sext *P. Clodius Trib. Pl.* made a law, that the *Trib. Pl.* should haue full authority and power to propose lawes; neither should they be hindred by the *Intercession*. i. gainsaying of any.

*Licinia Ebutia lex.*

Cic. contra Rullum 2. *Licinius* and *Ebutius* being *Tribuni Pl.* ordained, that if any preferred a law touching the oversight, the charge or cure of any businesse in hand; neither he, nor any fellow officer with him, nor any allyed vnto him should haue this oversight or charge committed to him.

#### CHAP. 9.

##### De Provincijs.

*Sempronia de provincijs.*

Cic. de pro-  
vince consu-  
laribus. *Sempronius Gracchus Trib. Pl.* ordained, that the *Senate* every yeare before the election of their *Consuls*, should as it seemed best to them, appoint out what Provinces the *Consuls* now to be elected, should after the expiration of their office go vnto; for which provinces afterward the *Consuls* designed should cast lots. Another clause to this law was, that whereas in former times, by a decree from the *Senate* it was lawfull for the *Tribunes* to hinder the *Romane* assemblies, henceforward they should haue no authority.

*Cornelia de Provincijs.*

Cic. ep. 9. ad Lentul. *L. Cornelius Sylla* being *Dictator* preferred a law, that whosoever went into a Province *cum imperio*, tam diu illud im-

*imperium retineret, quoad in urbem reversus esset*: whereas in former times his rule and government was to be resigned at the expiration of a set time appointed: yea although no successor were sent, it could he not continue there *cum imperio* without a new commission. A clause added vnto this law was, that after the coming of any new *President* or governour into the Province, the old *Provinciall President* should depart within thirty daies.

*Esse cum imperio.* i. *Exercitui præesse vel habere ius ad ministrandi, & suis auspicijs gerendi belli.*

*Titia lex de Provincijs.*

*Titius*, or (as some say) *Decius* preferred a law, that the *Provinciall Treasurers* called *Quæstores*, should cast lots for their Provinces: whence *Tully* in the oration now quoted inferreth, that although *Ostia* being the better Province fell vpon *Servius Sulpitius*, yet in as much as it fell *lege Titia*. i. by casting lots, he could not therefore challenge anie superiority about *L. Murena*. *Sed utriusq; nomen consedit in Quæstura*. i. their fame and renowne was equall in their *Quæstorship*.

*Iulia lex de Provincijs.*

*C. Julius Caesar* established two lawes touching the *Romane* Provinces: one that no *Prætor* should governe a Province about twelue monthes; nor *Proconsull* about two yeare. The severall heads or clauses of his second law could not all be found out, but those which haue come to light are these. First that *Achaia*, *Theffalia*, and all *Græcia* should be free, neither should any *Romane* Magistrate sit in iudgment in those Provinces (*Cic. pro domo*.) Secondly, that the *Provinciall* governours and their *Comites*. i. assistants or attendants, should haue hay, and all other necessities provided the on the way, by those townes & villages through which they passed. (*Cic. in Pison*.) Thirdly, that the *Provinciall* Magistrates at their departure, should leaue a book of their accounts in two cities of their province, and likewise shoulde sende a copy of their accounts vnto the *Romane*

p Sig. de iur.

Prov. l. 3. c. 13

q Sig. eiusd.

lib. cap. 6.

Cic. pro L.

Murena.

r Melanctho.

in orat. pro

Murena.

Cic. Philip x.

Treasure-house (*Cic. in Pison.*) Fourthly that it should neither be lawfull for the people to bestow, nor for the Provinciall Magistrate to receiue *Aurum coronarium* vnlesse it were in a triumph (*Cic. in Pison.*) Lastly, that it should bee vnlawful for the Provincial Magistrate without the allowance of the people or the *Senate*, to depart out of their province, to lead forth any army, to wage warre, or to go into any forreigne country. (*Cic. in Pison.*)

Lipius de  
magnit. Rom.  
lib. 2. cap. 9.

*Aurum coron.*] There was a custome amongst the *Romanes* in times of victory to present vnto the L. Generall Coronets of gold, in steede whereof the after-ages presented a certaine summe of mony, which was thence called *Aurum coronarium*.

*Vatinia de Provincijs.*

Cic. pro Bal  
bo.

*P. Vatinus Trib. Pl.* procured a law, that *C. Julius Caesar* should haue the gouernement of *Gallia Cisalpina*, and *Illyricum* for five years space, without any decree from the *Senate*, or casting lots. Secondly that they also should goe as Legates or L. Deputies vnto *Caesar*, without any decree from the *Senat*, whosoever were nominated in that law. Thirdly that *Caesar* should receiue mony out of the common Treasure-house towards having an army. Lastly, that he should transplant a Colony vnto a certaine towne of *Cisalpina Gallia* called *Novocomum*.

*Clodia de Provincijs.*

Cic. pro Do.  
mo,

*P. Clodius* being *Trib. Pleb.* procured a law that the gouernement of *Syria*, *Babylon*, and *Persia* should be committed to *Gabinus*. The gouernement of *Macedonia*, *Achaia*, *Thessalia*, *Gracia*, and al *Beotia* should bee committed vnto *Piso*; and they should receaue together with an army, mony out of the common Treasury towards their iourney.

*Clodia altera de Cypro.*

Cic. pro Sext

*P. Clodius* preferred another law, that the Iland *Cyprus* should be made a Province. That *Prolemaus* the king of *Cyprus* sitting in his purple, with his scepter and other his princely ornaments *Praconi publico subiiceretur*, & cum

bo-

*bonis omnibus publicaretur* .i. should himselfe with all his goods be sold by a common cryer. That *M. Cato* being then Treasurer, cum iure *Pratorio*, adiecto etiam *Quaestore*, hauing by commission the office of a L. chiefe Iustice, and another Treasurer to accompany him, should bee sent into the Iland *Cyprus*, both to make sale of the kings goods & estate, and also to bring backe the mony. Lastly it was decreed by this law, that those who lived in exilement at *Byzantium* being condemned for some capitall crime, should be brought backe vnto that citie, vnder the name of *Romanes*.

*Praconi publico subiiceretur.*] For the better vnderstanding of that phrase, wee are to vnderstand the manner of portsale amongst the *Romanes*: which wee may read in *Sigonius* thus. Those things were rightly sold in portsale, which were publikely sold *Per praconem sub hasta*. i. by the cryer vnder a speare stucke vp for that purpose, and some Magistrate making good the sale by delivery of the goods. Whence I take *Publico praconi subiyci*, & *Hasta subiyci* to signifie one and the selfesame thing, namely to be set at sale: and *Cicero* vseth almost the selfe same phrase, *Bona Cn. Pompeij, vocis acerbissima subiecta praconis*. This kind of sale was tearmed *Auctio*; because as *Sigonius* saith in the same place, to him the goods were sold, *Qui plurimum rem auget*. i. which would bid most for it: & hence is the seller thereof tearmed *Auctor*, as *Cic. Id quod à malo auctore commissent*. i. that which they had bought of one which had no authoritie to sell: & from this custome of setting vp a speare in this kind of sale, this word *Hasta* alone is vied to signify portsale, as *Hasta Caesaris*, the sale of *Caesars* goods. those who bought these goods *Tully* doth call *Seectores*, *quia spem lucri sui sectabantur*.

Cic. Phil 11

Verrin. 7.

Cic. Phil. 8.

Cic. in Ver.

Sig. de iud.  
lib. 2. c. 24.

CHAP. 10.

*De legibus Agrarijs.*

T 3

Those

**T**Hose laws were tearmed *Leges Agraria*, which did concerne the division of the publique or common fields. And these were either given by *Romulus* and other kings; or taken from the enemies, or from private men which had made inclosures; or lastly bought out of the common Treasury. *Vid. a Sigon.*

<sup>a</sup> Sig. de iure  
Ital. l. 2. c. 2.  
Cic. pro Sext.

*Sempronia lex Agraria.*

<sup>b</sup> Sig. de iure  
Ital. l. 2. c. 2.

*Titus Sempronius Gracchus Trib. Pleb.* preferred a lawe which forbade, that any of the *Romanes* should haue to his owne part aboute five hundred acres of the common fields, the one halfe of which it was lawfull for his sonnes to enjoy. If it had so hapned that any should enlarge these common fields, three surveyers called the <sup>b</sup> *Triumviri agro dividundo*, did marke out which was common, which private ground. Moreover it was by this lawe provided, that the mony of king *Attalus* who made the people of *Rome* his heire, might be bestowed vpon those citizens, which had by this law obtained a part of the common fieldes, to the buying of instruments for husbandry. Moreover, that the kings lands should be farmed out at a set rent by the *Censors*, whence an yearely tribute should be paid to the people.

*Cornelia lex.*

*L. Cornelius Sylla* being *Dictator* preferred a law, that all the fields of those *Romanes* which he had banished, should be common. This publication is to be vnderstood chiefly of those fields in *Thuscia* nere vnto the city *Volaterra*, and the city *Fesula*, which grounds *Sylla* divided amongst his souldiers.

CHAP. II.

*De frumentarijs legibus.*

*Sempronia lex.*

Cic. pro Sext.

**T**. *Sempronius Gracchus* being tribune of the commons provided, that a certaine quantity of corne shoulde monthly be givē vnto the poorer sort at a low price,  
*Semisse*

*Semisse & triente*, that is, about sixe pence farthing a bushell. Herevpon was there a place appointed in *Rome* for the keeping of this comon corne, together with certaine laws hanged vp there called *leges frumentariae*. This place was called *Horrea Sempronia*.

<sup>c</sup> Rosin. antiq. lib. 8. c. 12

*Semisse & triente*. It appeareth by the next law, that *Semissis* in this place, must signifie the same as *semieris* doth there. Whereby we may note, that *semissis* doth not alwaies signifie the halfe part of the *Romane* coine called *As*, but sometime it signifieth a greater coine yalewing almost our sixe pence.

*Clodia lex.*

*P. Clodius Tribunus Pleb.* ordained that that corn which heretofore was sold to the poore *senis aris & trientibus in singulos modios*, that is, for sixe pence farthing a bushell, should hereafter be given *gratis*, and the charge and oversight of this dole was committed to *Sext. Claudius*.

*Terentia Cassia.*

Cic. pro Sext. in Pisone.

*M. Terentius* and *C. Cassius* being *Consuls* preferred a law, *Uti altera decuma à provincijs coemerentur, pretio in singulos modios HS trium constituto. Item ut civitatibus aequaliter imperaretur, pretio in singulos modios HS quatuor constituto.*

For the better vnderstanding of this law, wee must note a threefold tithe paid by the Provinces. The first was the tenth part of the graine, growing in the Province to be paid in *gratis*, and that was properly called *Decuma*, or *frumentum decumanum*, and those that tooke this tithe to rent were called thence *Decumani*. A second sort of tithes was a certaine quantitie of corne taken vp for the *L. President* or chiefe governour of the province to keepe his house, & that was called *Frumentum aestimatum* .i. corne gathered vp by way of taxation: for so this word *aestimo* comming from *as* doth signifie. *Est autem aestimare ab are dictum, id quod vulgo dicunt appreciare & taxare.* The third sort of tithes, was when the *Senate* finding scarcitie of corne in

<sup>d</sup> Sig. de iure Prov. l. 1. c. 1.

<sup>e</sup> Fr. Sylv. in or. pro Cluentio.

Rome.

Rome, did inioyne the Provinces to sell them a quantitie of corne at a price set downe by the *Senatores* themselves, and this corne sould vpon iniunction, if it was paid but once in the yeare, it was tearmed *Frumentum emptum*; but if in the same yeare a second sale was inioyned them, then they called that second pay *Frumentum imperatum*. In the first clause of this law by [*altera decuma*] is meant *frumentum emptum*; in the second clause, by these words [*civitatibus aqualiter imperaretur*] is vnderstood *Frumentum imperatum*.

*Lex Hieronica.*

Cic. Vetrin. 4 *Hiero* king of *Sicily* obtained a law, wherein was set downe the quantitie of corne that the *Aratores* or country farmers should pay vnto the *Publicani* .i. those which receaued the tithes, together with the time of payment & the price agreed vpon.

CHAP. 12.

*De re militari & bellis.*

*Gabinia lex.*

Cic. pro lege Manilia.

**A**. *Gabinus Tr. Pl.* preferred a law that the managing of the war against the *Pyrats* should be in such manner committed vnto *Pompey* for three yeares space, that over the whole sea betweene *Heracles* his pillars, and in the maritime provinces vnto the foure hundreth *Stadium* from the sea, he should haue power to comand any Kings, *L. Presidents*, or whole corporations to furnish him with all things necessarie for that warre.

*Manilia Lex.*

Cic. pro lege Manilia.

*C. Manilius Trib. Pleb.* perswaded a law, that the managing of warre against *Mithridates* should bee committed vnto *Cn. Pompeius*. That the whole Province where *L. Lucullus* ruled, together with his whole army should be resigned vp vnto him. Moreover that *Bithynia*, where *Glabrio* ruled, should bee added, together with all those bands and forces, which hee had vpon the sea against the *Pyrats*, and all those provinces, over which the law *Gabinia*

nia did entitle him governour, as *Phrygia*, *Lycdonia*, *Galatia*, *Cappadacia*, *Cilicia*, *Colchis superior*, and *Armenia*.

CHAP. 13.

*De Tutelis.*

**T**his word *Tutela* doth signifie a wardship, guardianship, or protection of a child in his nonage: whereof *Camerarius* obserueth foure sorts, & we may with *Pellitarius* adde the fift. Either the overseers were appointed by will, or else the next of the kinne were overseers; or the magistrate did appoint, whom he thought fit: and these three sorts *Omphalius* calleth thus: the first *Testamentaria*, the second *Legitimam*, the third *Dativam*. The fourth sort *Camerarius* calleth *Tutela fiduciariam, quæ eorum est, qui emancipati desissent esse agnati*. The fift *Pellitarius* calleth *Tutela honorariam*, namely when as the office of administration is committed to others, but yet certaine chiefe overseers were appointed to see the will performed, who were called *Tutores honorarij*. Where wee must note, that the law provided overseers, not for children vnder age only, but for women also.

*Emancipati desissent esse agnati* By the *Roman* law every sonne was in such subiection vnto his father, that before he could bee released of this subiection and made free, hee should by an imaginary sale be sold three times by his naturall father to another man, who was called by the lawyers *Pater fiduciarius*. i. a father in trust; yea & be bought againe by the naturall father; and so manumised by him, & then he became free. The forme of this kinde of sale or alienation is set downe more at large in the explanation of one of the laws that followeth, with an example not much vnlike this. This imaginary sale was called *Mancipatio*; the children thus alienated from the father were tearmed *Emancipati*; this forme of setting free was tearmed *Emancipatio*. This *Fiduciaria tutela* then, in my opinion was thus. That when any goods did fall vnto a child thus alienated,

<sup>f</sup> I. Camerar. in orat pro L. Facco.

<sup>s</sup> I. Omphal. in orat pro Cccinna.

<sup>h</sup> Pellitarius pro Cccin.

<sup>i</sup> Cic. pro Muræn.

<sup>k</sup> Vid leg 12. tabul.

<sup>l</sup> Sig. de iure Roman. l. 1 c. 10



by the death of his father, then should not the oversight of this child fall vnto the next of the kinne tearmed *Agnati*, but *Quoniam desit esse agnatus*, i. because he had in a manner lost his aliance with his kindred, therefore should the oversight of the child belong vnto the father in trust, tearmed *Pater fiduciarius*, whence the guardianship it selfe was called *Tutela fiduciaria*.

*Latoria lex.*

C. 3. de offic. This law made by *Latorius* provided, that there should be overseers appointed for those which were distracted, or did prodigally wast their patrimonie. For, as it appeareth by the common adage, *Ad agnatos & Gentiles deducendus est*, they did account al prodigals, mad men: they meaning no more by that, then we do by our english proverb, when we say of a spend-thrift: let him be begged for a foole. The reason of their adage was, because if any were distracted, by the *Romane* law his wardship fell *Ad agnatos & Gentiles*, i. the next of the kinred.

CHAP. 14.

*De Testamentis.*

**B**Efore we descend vnto the lawes themselues, we will explaine those three diuers sorts of wils in vse amōgt the *Romanes*. Namely *Testamentum calatis comitis*, which was so called, because twice in the yeare in time of peace the *Romane* people assembled themselues together to this end and purpose, that if any would make his will the whole people might beare witnesse therevnto: these assemblies were tearmed *Calata comitia*. Secondly *Testamentum in procinctu*, i. when a souldier in time of warre readie to giue battle, did call out three or foure of his fellowes, & in the audience of them did by word of mouth pronounce his last will and testament. Thirdly, *Testamentum per emancipationem familie*, i. by making over his goods and possessions vnder a fained forme of sale, vnto a second party called *Heres fiduciarius & imaginarius*, i. an heire in trust, who should

should afterward resigne them vnto the true and lawfull heire: and this imaginary kind of sale, was performed with certaine solemnities *circa as & libram*: and also the sale it selfe was sometimes called *Nexus*, as likewise *Emancipatio*. Hence was the will sometimes called *Testamentum per as & libram*, sometimes *Testamentum per Nexum*. For the prooffe of this, which hath beene delivered, touching the three sorts of wills I will referre the reader to *m Sigonius*.

*Furia lex.*

*C. Furius Trib. Pleb.* made a law, that it should not bee lawfull for any to giue away in way of legacy, vnto any, except to the kinsmen of him which manumised him, or some other certaine persons. *supra mille asses*, i. aboue fiftie shillings or thereabout, there going 2 *Asses & semis* to the making of one *Sestertius*.

*Voconia lex.*

*Q. Voconius Saxa Trib. Pleb.* tulit legem, *Ne qui census esset, virginem, neve mulierem supra quadrantem suorum bonorum heredem institueret, plusve cuiquam legaret, quam ad heredem, heredesve perveniret.*

*Census*.] This word *Census* doth sometimes signifie all such as haue tendered the iust valuation of their estate vnto the *Censors*: and then *Incensus* is opposite to it, signifying such an one, as hath not tendred his estate or name to bee registred by the *Censors*. But in this place *Census* is taken for such a rich man, whose estate was in the *Censors* booke valued at one hundred thousand *Sesterces* (*Vid. Asconium in Verrin. 3.*)

*Supra quadrantem suorum bonorum*, i. No womā should be heire to more then one quarter of such a rich mans goods. For the right conceaving of this, we must note with *Latomus*, that the whole inheritance (were it never so great) was tearmed *As*, and that was divided into twelue parts which the lawyers called *Vncia*: *Due vncia dicebantur Sextans*; *tres quadrās, quatuor Triens, quinque Quincunx, sex Sēmīssis, septem Septunx, octo Bessis, novem Dodrans, de-*

*m Sig. de iure Rom. l. i. c. 12*

*Cic. Verrin. 3*

*Cic. Verrin. 3*

*Barth. Latom. in orat. pro Cecinna*



*cem Decunx, undecim Decunx, Totum As, ut dictum est.* Againe every *Vncia* was divided into six parts called *Sextula*: *Dua sextula Duellam, tres Semunciam faciunt.* So the ac-

• Alex. Gen. dier. l. 1. c. 1. cording to the lawyers (as ° *Alexander* obserueth) if there were one heire alone instituted, he was tearmed *Hares in Assem totum institutus*; if otherwise there were many co-heires, then was it according as the *Testator* did appoint. Some were *ex Deunce haredes* .i. heires to eleven parts of his goods, there being but one part bestowed from him: some were *heredes ex quadrante* .i. heires to one quarter of his goods: others were *Haredes ex semuncia* .i. they had the foure and twentieth part: others were *Sextula aspersi* .i. they had the threescore and twelke part of the whole *As* .i. of the whole inheritance be it more or lesse, &c. Here wee must vnderstand that there is great difference betweene these two phrales, *Institui hares in totum Assem*, & *ex toto Asse*. For all those, which were nominated *Haredes*, whether it were *ex Dodrante, Quadrante, vel Semuncia*, or howsoever, yet were they tearmed *Haredes ex toto Asse* .i. they were not *Legatarij*, such as receaued legacies. Now none cā be said *In totum Assem institui*, but he which is the alone & sole heire vnto the whole.

## CHAP. 15.

## De Vsu-capione.

## Atinia lex.

Cic. Verrin. 3. **A**tinus made a law, that the plea of prescription or long possession should not auale in things that had bene stollen, but the interest which the right owner had in those stolne goods should remaine perpetuall. The words of the law are these: *Quod surreptū est, eius rei aterna auctoritas esset.* Where by *auctoritas* is meant *ius domini*. This crime of theft as likewise of vsury was so odious vnto the *Romanes* that whosoever was found guilty therof was condemned *Lege quadrupli* .i. to pay foure times as much: whence the informers against such were tearmed *Quadruplatores*.

CHAP.

## CHAP. 16.

## De Iudicibus, &amp; Iudicijs.

## Lex accusatoria.

**T**ully mentioneth a law tearmed *lex accusatoria*, which in truth was no lawe, neither was there any author thereof: but there was a such a received custome amongst the *Romanes*, that the accuser should obiect against the party accused, not onely the present crime then questioned, but all other scapes and faults comitted long before to the bettering of his matter: that at length this accusatory custome became in manner of a law, and so was called *Lex accusatoria*. vid. *Franc. Syluium in orat. pro Mur.* Their custome also was to procure others to ioine with them in their accusations; those Tully calleth *Subscriptores*, because they did subscribe vnto the accusation.

## Lex Servilia &amp; Sempronia.

Whereas *Sempronius* had preferred a law, whereby he tooke away the authority of sitting in iudgement from the *Senatours*, and appropriated it to the *Romane Gentlemen*; *Q. Servilius Capio* being *Consul* did afterwarde preferre another law, whereby the administration of iudgement was divided betweene the *Senatours* and the *Gentlemen*.

## Rupilia lex.

*Rupilia lex vetabat diebus triginta sortiri dicam.* ] Here Cic. in Verr. we must note with *Sigonius*, that this law was of force onely in the province of *Sicilia*: also that it is one thing *scribere dicam* .i. to enter an actio, another *sortiri dicam* .i. by lots to choose the Iudges, which was 30. daies after.

## Livina lex.

Though by vertue of *Servilius* his law the *Senators* were made capeable of the office of a Iudge, yet they were not thereby equally capeable with the *Romane Gentlemen*: & l. 3. therefore did *M. Livius Drusus* ordeine, that the Iudges should be elected equally out of both orders, namely three

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hundred out of the *Senat*, and three hundred out of the Gentry.

*Plautia lex.*

Cic. pro Cornel.

*M. Plautius Sylvanus* preferred a law, that the number of Iudges should be chosen not onely out of the *Romane Senators* and Gentlemen, but out of the poplacy also, namely out of every Tribe fiftene Iudges.

*Aurelia lex.*

Cic. in Verré 2pe.

*L. Aurelius Cotta* being *Prætor* made a law, that the Iudges should be chosen out of the *Senators*, the Gentlemen, and those *Martiall Treasurers* or *Clearks* of the band called *Tribuni ararij*.

*Pompeia lex.*

Cic. in Pison.

*Cn. Pompeius Magnus* being *Consul* ordained, that the Iudges should be elected out of the wealthiest *Centurios*, tying the election notwithstanding to those three degrees of people, namely *Senatours*, Gentlemen, & *Martiall Treasurers*; also he added that the number of Iudges to examine causes should be seaventy and five.

*Iulia lex.*

Cic. Philipp. 1.

*C. Iulius Caesar* ordained, that the election of Iudges should be out of the *Senators* and Gentlemen onely, leaving out the *Martiall Treasurers*; and this *Tully* calleth *legē Iudiciariam Caesaris*.

*Antonia lex.*

Cic. Philipp. 1. & 5.

*M. Antonius* tulit legem, ut tertia iudicium decuria e *Centurionibus*, *Antesignanis*, *Alaudis*, *Manipularibus* fieret.

*Iudicium decuria:* When the *L.* chiefe Iustice had taken his oath, he chose out some *ex certis ordinibus, non ex omni populo*. i. out of such degree and place, as the law required, to sit in iudgement in the triall of those cases, which were rearmed *causa publica*: and these Iudges he afterward divided into lesser numbers called *Decuria*. vid. *Sigon. de iure Rom. lib. 2. cap. 18.*

*E Centurionibus.* Centuriones were captaines over an hundred footmen.

An-

*Antesignanis.* This word *Antesignanus* hath a double acception in the *Romane histories*. Sometimes *Antesignani* do signifie the third part of the *Romane army*: For all those souldiers, that fought before the banners or ensignes, as they were called *Hastati* in respect of their weapō, so were they called *Antesignani* in respect of their ensignes, before which they fought. The second part of the army as they were called *Principes* in respect of their prowesse and valour, so were they called *Subsignani*, as fighting vnder the ensignes. The third part, as they were called *Triarii* because they fought in the third, or rereward, so were they called *Postsignani*, as fighting behinde the ensignes. Where we must not think, that those which were called *Antesignani*, & *Subsignani*, were altogether destitute of ensignes among themselves (for every *Maniple* had his ensigne) But the Eagle and other chiefe ensignes were caryed by the *Subsignani*, and in respect had to them they had their names. And hence ariseth the second acceptiō of this word, namely that all those souldiers of every *Maniple*, which stood in front before their ensigne were called *Antesignani*, & those were commonly the best souldiers in the company. See the severall proofes of this. *Lips. Milit. Rom. lib. 4. dial. 3.*

*Alaudis.* *Iul. Caesar* pressed a legion of souldiers out of *Gallia Transalpina*, all which afterwarde he made free of *Rome*. This legion he called *Legionem Alaudarum*, frō the forme of their helmets which did resemble the head of the Larke, called in french *Alauda*. *Barthol. Latomus in Philipp. 1.*

*Manipularibus.* Those captaines which governed a *Maniple* of souldiers, were called *Manipulares*. *Fr. Maturrantius in Phil. 1.*

*Cornelia lex.*

*L. Cornelius Sylla*, preferred a law, that the chiefe Iudge of the bench called *Iudex questionis*, should referre it vnto the choice of the defendant, whether he would haue iudgment passed on him *Clam an Palam*. i. (as *Sylvius* obser-

Cic. pro Cluentio.

verth)

veth) either by voices, or by tables.

*Memnonia lex.*

This law (made by *Memnius*) provided, that no action should be entred against those, who were imployed abroad in busineses for the common wealth. An addition vnto this law was, that whosoever should *calumniari*. i. forge an accusation against another, a certaine letter should bee burnt in his forehead in token of infamy. This law is sometimes called *Lex Rhemnia*. Here we may with *Fr. Sylvius* obserue the difference of these three phrased, *Calumniari*, *Prevaricari*, and *Tergiversari*. He which doth in his accusation forge faults never committed, is said *Calumniari*. He which vndertaketh ones suit, and either will not vrge reasons in the behalfe of his client, or answer the objections of his aduersarie when he is able, is said *Prevaricari*. i. to play the false *Proctour*. He which doth desist in his accusation, and let his suit fall, is said *Tergiversari*.

*Lex incerta de Nexu.*

*In ijs rebus qua mancipi sunt, is periculum iudicij prestare debet, qui se nexu obligavit*. i. If the buyer of any thing in that forme of sale called *Nexu* be troubled in law, the seller thereof must secure him, and saue him harmelesse.

*Mancipi sunt*.] \* Those things were tearmed *res Mancipi*, which were alienated from the seller *Nexu*. i. by such a forme of sale as followeth. The forme was thus; At the least fve witnesses, all *Romane* citizens and of full age, besides one called *Libri-pens* (from holding of a paire of ballaces) should be present: and the chapman or buyer should come with a certaine brasse coyne in his hand, and say (for example sake, if it were a bondslawe to be sold) *Hunc ego hominem ex iure Quiritium meum esse aio, isq; mihi emptus est hoc are*; and forthwith striking the ballance with the brasse coyne, he gaue it to him that made the sale. This kinde of chaffering was tearmed *Nexu*, as we may suppose *à nexu*. do, because it did bind the seller to make good the sale.

Sometimes it is called *Per as & libram venditio*, because of the

the ceremonies vsed in it. Now it is commonly called *Mancipatio*, *à manus capione*, from taking that which is sold into ones hands or possession: whence the word *Mancipatum*, and *Mancipium* are vsed to signifie a bondslawe, that is in this maner solde; though sometimes *Mancipium* doth signifie the sale it selfe: whence *Cic.* vseth this phrase, *Lex Mancipij*, to signifie a clause or condition put in the sale. All things solde after this maner were tearmed *Res Mancipi*; The word *Mancipi* being a nowne indeclinable, as *Frugi, Cordi, Huiusmodi, &c.* We may coniect the reason of these ballances, why they should bee vsed in this kind of bargaining, to be, because in olde time they did not bargain by paying coined mony, which was called *Æs signatum*, but by paying a certaine weight of money, whence such mony was tearmed *Æs grave*. And hence it is, that metaphorically we translate *Pendo* and *Rependo*, to pay and repay.

CHAP. 17.

*De Maiestate.*

*Lex Varia.*

*Quirius Trib. Pl.* made a law, that the *Prætores Quæstiores* should sit in iudgement vpon those, by whom the Allies or Associates had been moved to attempt warre against the *Romane* people.

*Julia lex.*

*C. Jul. Caesar* ordained, that such as were condemned of treason, or causing vproares in the common wealth, should be banished.

CHAP. 18.

*De Ambitu.*

Those lawes were tearmed *Leges de Ambitu*, which were made against vndirect or vnlawfull courtes vsed in canvasses for offices.

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*Fabia de Ambitu.*

This *lex Fabia* restrained the number of those poore me who because they were wont to follow vp & downe, & all the day to attend such as did stand for offices, were thence called *Sectatores*.

*Acilia Calpurnia.*

Cic. pro Mur. *M. Acilius Glabrio*, and *C. Calpurnius Piso*, being *Consuls*, made a law, that such as were convinced of *sinister* and vndirect meanes vsed in their canvasses, should be fined at a certaine summe of money set on their heads, & they should be made both vncapable of bearing office, and vneligible into a *Senators* place.

*Senatus-consultum de Ambitu.*

Cic. pro Mur. *M. Tullius Cic.* and *C. Antonius* being *Consuls*, a certaine decree was made by the *Senat*, that if such as did either salute or attend vpon those that stood for offices, were hired by any manner of reward; or if any publike prizes were occasioned to be plaid; or any publike feasts made by the, they should be liable to the censure of *Calpurnius* his law.

*Tullia lex.*

Cic. pro Sext *M. Tullius Cic.* made a law, that no man standing for an office should cause any publike prize to bee plaid, within two yeares that he either had stood, or should stand for an office, vnlesse the day had formerly bene appointed by some will. Item he ordained, that *Senatours* being found to haue vsed vnlawfull meanes for the attaining of any office, should suffer ten yeares exilement. And the commonaltie offending in that point, should bee punished with an heavier punishment, then the law made by *Calpurnius* laied on them. An addition vnto this was, that if any being cited to his answer in the court for his vndirect meanes, *Si morbum excusaret*. i. If hee did vrge his sicknesse for his not appearance, then should he vndergoe a penaltie.

*Si morbum excusaret.*] So that *Tully* here seemeth to cut of that libertie which the twelue tables permitted in these words [*Si Index alternè ex litigatoribus morbo sontoico imped-*

*diatur, iudicij dies diffusus esto*] .i. If either Judge, Plaintiffe, or Defendant were sick, they should *diffindere diem*. i. 4 pro-<sup>d Sig. de iud. lib. 1. cap. 28.</sup> *ferre & in aliud tempus reuocare*, proroge the time of iudgement. And vnlesse some might thinke, that by *morbus sontoicus* was meant some strange discafe, *Sigonius* inferreth that every discafe is tearmed *Sonticus*, which hindreth vs in the performance of our busineses: *Sontes enim nocentes dicunt.*

*Licina de Sodalitijs.*

*M. Licinius Crassus* being *Consul*, perswaded *ut in Sodalitijs Indices ab accusatore ex tribubus ederentur.* Cic. pro Plācio.

*Sodalitia.*] In the later times the *Romanes* in their canvasses would gather together a certaine company of their side or faction to follow them, tearming them *Sodales*: & these *Sodales* would as it were by violence force the people to suffrage with them, whence the violence offered by them was tearmed *Sodalitia*. *Sig. de Ind. lib. 2. cap. 30.*

*Indices ab accusatore ederentur ex tribubus.*] Wee may read of three sorts of Iudges among the *Romanes*, or rather of three diuers kinds of elections of their Iudges. For either they were *Leiti sortitione*, of which more may be seen in one of the lawes following; or *Editione*, by nomination or naming them, the manner thereof being thus; That either the plaintiffe should choose them all, and then were they called *Indices editi*; or the plaintiffe should choose one halfe, and the defendant the other, and then were they called *Indices alterni*. *Melancthon in Cic. pro Muran.*

## CHAP. 19.

*De pecunijs repetundis.*

F<sup>I</sup>rst touching the word *Repetunda*, *Sigonius* saith, that such money was tearmed *Pecunia repetunda, qua possent repeti*, which might by the course of lawe bee recovered; Namely such money as any Magistrate, Iudge, or publike officer, did either in the Provinces, or in the citie receaue as a bribe, from the Allies and Associates, or from the *Romane* citizens for the administration of iustice, or the execution

cution of any publike dutie: & this kind of bribe they tearmed *Pecunias Repetundæ*, *pecuniam ablatam*, *captam*, *coactam*, *conciliatam*, *aversam* (Cic. in *Verrinis*) But as it seemeth very probable, these lawes against bribery were first occasioned, for the ease and reliefe of the *Romane* Provinces and Allies, called in Latine *Socij*, who were much abused in this kind by the Prov. *Consuls*, *Prætors*, & *Quæstors*, &c. Whence *Tully* calleth this law against bribery, *Legem Socialem*.

*Iunia lex.*

*M. Iunius Pennus Trib. Pleb.* preferred a law, that such as were convinced of bribery, *Præter litis æstimationem, exilium etiam damnato esset irrogatum*.

*Litis æstimationem.* Here we wil consider the difference of these three phrases, *Litis contestatio*, *Litis redemptio*, and *Litis æstimatio*.<sup>e</sup> The first signifieth the producing of witnesses, when both sides shall openly in the court vse this forme of words, *Testes esto*: which was not done, *antequâ satisfactions facta essent*, before sureties were put in, by the one, that hee would *Iudicatum solvere*, pay that which hee was condemned: by the other, that he would *rem ratam habere*. i. stand to the verdict or sentence in the court. The second phrase signifieth a composition or an argument agreed vpon by both sides betweene themselves.<sup>f</sup> *Redimere lites est pactionem facere; qui enim paciscitur, facit ut lis non sit.* The third is, when the partie which is cast in the suit is adjudged to pay the mony, or the worth of the goods called in question, together with the cost and damages in law vnto his aduersarie. & *Litem æstimare est pecuniam, de qua lis fuit, & propter quam condemnatus est reus, in summam redigere, quæ de bonis eius redigatur.*<sup>h</sup> And *Æstimare litem est, quod vulgò dicitur, Taxare litis expensas.*

*Acilia lex.*

*M. Acilius Glabrio* made a law, that such as were accused of bribery, *Neq; ampliari, neq; comperendinari possent*. i. they must out of hand receaue iudgement.

For

For the right vnderstanding of these two words [*Ampliari* & *Comperendinari*] we must consider the ancient customs and ceremonies vsed by the *Romanes* in handling their suits of law. First there was *In ius vocatio*. i. a citation of one into the court. Secondly *postulatio*. i. a request put vpon the *Prætor*, that it might be lawfull for the Plaintiffe to enter his action against the Defendant; whence *Postulare aliquem de hoc vel illo crimine*, is to accuse one of this or that crime. Thirdly *Nominis delatio*. i. the taking of the defendants name into the court-booke: and this was tearmed *Intendere actionem, vel Litem*; and *Diem alicui dicere*. i. to enter an actiõ against one. At which time the plaintiffe did *Vadari reum*. i. demaund sureties or bale frõ the defendant, that he would appeare vpon the day appointed by the *Prætor*, which commonly was the third day following, called properly *dies perendinus*, and sometimes *dies tertius* simply, as it appeareth by those capitall letters. *I. D. T. S. P.* vsed to be written in their actions: which letters<sup>i</sup> *Probus* expoundeth thus. *In diem tertium, sue perendinum*. So that the pro-<sup>i</sup> lib 1. cap. 27.  
perly, *lis vel reus dicitur comperendinari*, when the giving of sentence is differred til the third day. Moreover before the *Prætor* would suffer the Action to be entered, he would sweare the Plaintiffe that he did not accuse the Defendant *calumniandi causâ*. i. falsely or maliciously, and this kind of swearing was tearmed *Calumniam iurare, calumniam deinrare*, and *In litem iurare*. Now if either party were absent from the court vpon the third day, except he were sicke, he was cast in his suit, and the *Prætor* did graunt an executiõ called *Edictum peremptorium*, whereby he gaue authority to his aduersary to seaze vpon his goods. Sometimes there were two or three Edicts in manner of Proccesses or writs before the *Edictum peremptorium* could be obtained; some times it was graunted at the first, and then was it<sup>k</sup> called *unum pro omnibus*.<sup>l</sup> Now if both parties came into the court<sup>k</sup> Sig. eiusd. 1. cap 28.  
and did appeare, then were they said *se stitisse*: so that this<sup>l</sup> Sig. eiusd. 1. cap. 21.  
word *stisso* amongst the lawyers did signifie to shew ones selfe

<sup>e</sup> Sig. de iud. lib. 1. cap. 27.

<sup>f</sup> Fr. Sylv. in orat. pro Q. Roscio.

<sup>g</sup> Fr. Sylvius in orat. pro Cluentio.  
<sup>h</sup> I. Tullius in orat. pro Rabirio.

<sup>i</sup> Sig. de Iud. lib 1. cap. 27.

<sup>k</sup> Sig. eiusd. 1. cap 28.

<sup>l</sup> Sig. eiusd. 1. cap. 21.

selfe in the court. Vpon the third day the *Prator* also with the whole bench of Iudges did meete, and the *Iudex Quaestionis* (whom *Rosinus* maketh a distinct officer differing from the *Prator*) did cause all the *Select* Iudges to pull out certaine lots, out of an urne or pitcher brought thither for that purpose, & those Iudges vpon whom the lot fell were to sit in iudgment: This was called *Sortitio Indicum*. Now if either the Plaintiffe or Defendant did suspect any of those, that they would be partiall, then might he except against them, and that was called *Iudicum reiectio*: Then the *Iudex quaestionis* would in manner aforesaide choose other Iudges into their places, and that was called *subsortitio*. Which being ended, those Iudges which were thus chosen received every one of them from the *Prator* three tables, the one having this letter *A* written in it, betokening *Ab-solution*: whence *Tully* calleth it *litteram salutare*: The other having this letter *C* written in it, betokening *Condemnatio*: the third having these two letters *N. L.* betokening *Non liquet*. After the receipt of the tables, then did the *Prator mittere vel dimittere indices in cōflium*. i. send them to cast their tables into the urnes, there being three urnes or little coffers purposely provided; the one for those iudges which were chosen out of the *Senators*, the other for those that were chosen out of the *Gentlemen*, the third for those which were chosen out of the *Martiall* Treasurers. Now if they did cast the first sort of tables into the urnes, then the *Prator* pronounced the defendāt absolved; if the second, then he pronounced him condemned; if the thirde, then hee pronounced *Amplius cognoscendum*, that they must haue longer time to enquire: And this is properly termed *Ampliatio*, A reprieue; and in such maner it is said, *quod is vel reus dicitur Ampliari*. The proofes for this manner of proceeding in law may bee collected out of *Rosinus lib. antiq. 9. cap. 19. 20. & 24.* and out of *Sigonius* according to the marginall quotations.

*Lex Cornelia de Sicarijs, Veneficio, & Parricidio.*

Cor-

*Cornelius Sylla* being *Dictator* ordained a law, that the chiefe Iudge called *Iudex Quaestionis* with the whole bench of Iudges, should sit vpon life and death on such as had killed a man; on such as had with an evill intent set any place on fire; on such as should walke with any weapon either to kill or rob a man; on such as had either made, bought, sold, had, or given any poyson, thereby to kill a man; on anie magistrate, whosoever should cause any conventicle or secret assemblies, or should giue their consent to the suborning of any man to accuse another falsely, that, thereby he being innocent might be oppressed & condēned by publique iudgement. Moreover *De eius capite quarito, &c. i.* Let them sit vpon life and death on that man, which shall beare false witness, that another might be condemned to death; on that magistrate or chiefe Iudge, which shall take a bribe to condemne another to death.

*Parricidium.*] This word doth properly signifie onely a murdering of ones parents or kinsfolke, but in *Numa Pompilius* his time it signified as much as *homicidium*. i. any manslaughter whatsoever.

#### CHAP. 20.

##### *Lex 12. tabularum de Vindicijs.*

*Si qui in iure manum conserunt, vitreiq. superstibus praesentibus vindictam sumunto.*

*Si qui in iure.*] Here we must note, that the custome among the *Romans* in old time was, that as often as any controversie did arise touching the possession of an house, a field, or any such like thing, the *Prator* did goe vnto the house, field, or the thing questioned, being accompanied thither with the Plaintiffe and the Defendant, together with others whom the law required to be present as witnesses. This place wheresoever it were, though in the open feld, during the time that the *Prator* sate there to giue iudgement, was termed in Latin *Ius*, in English a Court. Where in the presence of the *Prator* and the witnesses, the plain-



plaintiffe and Defendant did *manum conferere*, that is; as  
 m I. Camerar. m *Camerarius* suppoeth, argue and dispute the case *pro* and  
 pro L. Murgen *con* in a solemne forme of wordes prescribed them by the  
 law. For this phrase is borrowed by the lawyers from the  
 art military, where souldiers are said *manum vel manu con-*  
*ferere*, when they fight hand to hand. [*Vireiq; superstitibus*  
*presentibus*]. i. let both parties in the presence of witnesses  
 (so *n Fests* expoundeth *superstites*) [*Vindicias sumunt*]. i.  
 Let them take a tuffe of the ground: for so *o Sigonius* ex-  
 poundeth *Vindicia*; though properly (as hee observeth) it  
 signified the possessiō of a thing, rather then the thing pos-  
 sessed. This tuffe being taken vp, was caryed to the *Præ-*  
*tor*, and iudgment was given vpon that, as vpon the whole.  
 I do presume that in other cases, as in taking the possession  
 of an house, &c: some other thing in maner of the tuffe  
 was presented vnto the *Prætor*, vpon which as vpon the  
 whole he gaue iudgement. In Proesse of time, the *Prætor*  
 by reason of the multitude of other employments, not fin-  
 ding convenient leasure to review every paticular ground,  
 or house called in question, P it was ordained contrarie to  
 the twelue tables, that the plaintiffe in such cases shoulde  
 come into the court, and challenge the defendant in this  
 forme of words, *Ex iure manu confertum te voco*. i. I chal-  
 lenge thee to goe out of the court into the field, to vse one  
 towards the other that solemne forme of words which the  
 law enioyneth. Then did the defendant either yeeld the  
 possession of the ground, or else he did reply, *Vnde tu me ex*  
*iure manu confertum vocasti, inde ibi ego te revoco*. Thē did  
 they both taking witnesses with them without the compa-  
 ny of the *Prætor inire viam*. i. goe into the ground bringing  
 back a tuffe thereof, vpon the which (as in maner shewne)  
 the *Prætor* gaue iudgement at their returne.

For the better vnderstanding of this that hath been spo-  
 ken in the explanation of this law, we must note, that the  
 action tearmed *Vindicatio* was twofold: either the suit for  
 the possession of a thing, or the suit for the Lordship or  
 right

<sup>a</sup> Rosin. ant.  
 lib. 8 c. 29.  
<sup>o</sup> Sig. de iud.  
 lib. 1. c. 21.

<sup>p</sup> A. Gell. vid.  
 Rosin. Ant.  
 lib. 8. c. 29.

right owning thereof. The possessiō of any thing was reco-  
 vered, either by a true & real violence, or by a seeming vio-  
 lence. This seeming violence was twofold, either it was *ma-*  
*nu cōsertio*, which was shewne immediately before; or *Mo-*  
*ribus deductio*. i. a customary leading the vnlawfull possessor  
 out of the ground thereby to enter possessiō. *Vis simulata al-*  
*tera à lege, altera emanavit à moribus*; saith *q Sigon*. The first  
 of these did arise from the Romane law, the other from a  
 custome amongst the *Romanes*: the first of these is to bee  
 seene in *Tully* his oration *pro Muræna*, the other *pro Cæci-*  
*nâ*. To these *Sigonius* addeth a third kinde of seeming vi-  
 olence; which how iustly he hath tearmed a violence, I shal  
 leaue to the indifferent iudgement of the vnpartial reader.  
 The right of the Lordship or owning any thing was sued  
 for in this maner: The plaintiffe did question with the de-  
 fendant thus; first *An auctor esset?* .i. whether hee had not  
 covertly made away the possession of the thing, thereby to  
 frustrate the action. Secondly, *An sponderet*. i. whether he  
 woulde put in a gage of mony into the court, which hee  
 would forfeit if he were cast; which being done, the plaine-  
 teiffe did also vpon the demande of the defendant put in a  
 gage of mony to be forfeited, if he prevailed not in his suit.  
 This gage of mony was tearmed *sacramentum*; and in this  
 sense, *Tully pro Milone*, saith, *In iustis vindicijs, & sacra-*  
*mentis alienos fundos petunt*, that is, they sue for other  
 mens grounds, with vniust actions and gages of mony.  
 Thirdly, *An satisfaret*, that is, whether hee woulde  
 put in surety, that during the triall in law, the ground or  
 house called in question should not be impaired. The so-  
 lemne forme of words vsed in the first demande, is thus to  
 be seene in *Tully, Quando in Iure te conspicio, postulo anni-*  
*fies auctor?* If the defendant held his peace, then was he ad-  
 iudged to pay all costs & damages; if he professed himselfe  
 the present possessor, then did the plaintiffe proceed in mā-  
 ner as he should for the possession thereof; if he denyed it,  
 then did the *Prætor* say vnto the plaintiffe, *Quando negat,*  
 r  
 sa.

<sup>q</sup> de iudic. lib.  
 1. cap. 21

<sup>r</sup> Sigon. de iu-  
 dic. lib. cap. 21

<sup>c</sup> Cic. orat.  
 pro Muræna  
 & pro Cæci-



*sacramento quarto*: Therevpon said the plaineiffe to the defendant, *Quando negas, te sacramēto quinquagenario provoco, spondesne te soluturum quinquaginta asses, si auctor sis?* To whom the defendant replied, *Spondeo quinquaginta asses si auctor sim. Tu vero spondesne idem, ni sim?* The plaineiffe answered, *Ego quoq, spondeo*. Now in this kinde of stipulation, the plaineiffe was said *sponsione & sacramento provocare, sacramento rogare, quarere, & stipulari*. i. to challenge one to pawn a summe of mony for the trial of a suit in law. The defendant was said, *cōtendere ex provocacione, cōtendere sacramento, & restipulari*. i. to be sued in such manner. This mony was tearmed *sacramētū*, because when it was forfeited, it was bestowed *in rebus sacris & divinis*. Touching the last Interrogatory, I reade no set forme of words, but by the word *satisfactio*, the intelligent reader may coniect that it did somewhat symbolize with our English custome of putting in bale.

† Sig. de iud.  
lib. 1. cap. 21.

Lib. 4.



Lib. 4.

*Rites and customes observed by the Romanes  
in their warres.*

*De Militiā.*



Toucing the art *military* vsed among the *Romanes*, it will not be impertinent to consider, first how warre was proclaimed, and peace established by them: Then to march on to the description of their bands or companies, where wee may first obserue the office of their chiefe captaine, and their subordinate leaders, together with the severall wards into which the vniversall army was divided. After this we may descend vnto the diversity of punishments vsed towards captiues, & likewise towards refractarious and disobedient souldiers: Adding as a *corollary* or *period* to our whole discourse the severall rewards, which the L. Generall with his souldiers after the performance of certaine noble atchieuements received.

CHAP. I.

*De ritu, quem Romani observarunt vel fœdus ferientes, vel bellum inferentes: & de triplici ratione conscribendi milites.*

WE may remēber that it hath been already shewn, that both the proclaiming of warre & peace be-

longed vnto a certaine order of *Romane* Priests called *Fæciales*, whom by reason of their office I englished *Heralds at armes*. The rites and ceremonies, which they vsed, when they proclaimed peace were as followeth. *vz.* One of those *Heralds* having his commission from the state (after that both sides had agreed vpon the truce & league now to bee concluded) tooke vp a stone in his hand <sup>a</sup> vsing this solene forme of words: *Si rectè & sine dolo malo hoc fœdus atq; hoc iniurandum facio, dii mihi cuncta felicia præstent; sin aliter aut ago aut cogito, (ceteris omnibus saluis) in proprijs patrijs, in proprijs legibus, in proprijs laribus, in proprijs templis, in proprijs sepulchris solus ego peream, ut hic lapis è manibus decideret*, and therewithal he cast the stone out of his hand: which maner of oath was tearmed *Iurare Iovem lapidem*, or *per Iovem lapidem*. i. as it hath been rendred by *Festus*, to swear by *Iupiter* holding a stone in ones hand. <sup>b</sup> Many say that he did cast that stone at an hogge or porker brought thither purposely, adding these words to the former; *Si prior populus Romanus defexit publico cõsilio, tum ille Diespiter populum Rom. sic ferito, ut ego hunc porcum hodiè feriam*: alluding to which custome *Virgill* saith,

*Et casâ inungebant fœdera porcâ.*

The maner of denouncing warre hath beene <sup>\*</sup> already shewen. The act of service in warre was termed *Mereri sub hoc vel illo dace*. i. to serue in warre vnder this or that captaine: and whatsoever souldier was discharged of his service, as having served out his whole time, hee was called *miles emeritus*, and by <sup>c</sup> *Tully*, such an one is said *stipendia confecisse*. <sup>d</sup> *Servius* hath observed, that the *Romane* souldiers were pressed three maner of waies: *per Sacramentum, Coniurationem, & Evocationem*. But <sup>e</sup> *Lipsius* censurcth him for the amisse-explanation of the last member. Therefore the indifferent reader shall giue me leaue to borrow the termes from *Servius*; but the explanation of them partlie from *Servius*, partly from *Lipsius* in the places now quoted. Ordinarily souldiers at their presse did each severallie take

<sup>a</sup> Polyb. vid. Rosin. antiq. l. 10. c. 2.

<sup>b</sup> Sig. de iure Ital. l. 1. c. 1.

<sup>\*</sup> Vid pag. 50.

<sup>c</sup> Orat. pro lege Manil. <sup>d</sup> Serv. l. 2. & 7. Æneid.

<sup>e</sup> Lips. de milit. Rom lib. 1 dial. 8.

take their oath not to forsake their captaine or country; & this oath was called *Sacramentum militare*. The wordes thereof are rendred by <sup>f</sup> *Polybius* thus: *Obtemperaturus sum, & factururus, quicquid mandabitur ab imperatoribus, iuxta vires*, and those were tearmed *milites per sacramentum*. Vpon extraordinary occasions, (as when tumults or commotions did cause any suspicion of imminent danger) the chiefe leader of the souldiers did go vnto the Capitoll and bring forth two banners or flags, the one red, called therefore *vexillum roseum*, vnto which the footmen repaired; the other sky-coloured called therefore *cæruleum*, which the horsemen followed. The reason why the horsemens banner was sky-coloured is so rendred thus, because it did most resemble the colour of the sea, which colour they deemed most acceptable to *Neptune*, who was both the God of the sea, and the first author of horses. Now because the suddaine daunger woulde not yeelde so much time, that they might severally bee sworne, therefore did they take their oath in common altogether; and thence were they called *Milites per coniurationem*; as likewise <sup>h</sup> *Milites subitarij* in respect of their suddaine presse. The third member may also be admitted, if we with <sup>i</sup> *Lipsius* vnderstand it in its true sense, namely for those souldiers who by the L. Generall were added vnto the body of their army; hee hauing autoritie to call out such other souldiers, who for their long service were discharged from giuing in their names at a muster. And these are generally by all authors tearmed *Milites evocati*; and *Lipsius* deemeth them all one with those whom *Servius* calleth *Milites per evocationem*. The souldiers being thus pressed, if they purposed to make warre vpon their enemies, then did the L. Generall summon them to prepare themselves by a sound of trumpets; & this was tearmed *Classicum canere, à calando*, which signifieth to call. Which being done, a skarlet banner was hanged out at the L. Generall his pavilion: from which ceremony I thinke that that common adage did first arise,

<sup>f</sup> Vid. Lips. de milit. Rom. l. 1. dial. 6.

<sup>g</sup> Serv. Æneid. lib. 8.

<sup>h</sup> Lips. lib. 1. de mil. Rom. dial. 4.

<sup>i</sup> Lib. 1. de mil. Rom dial. 8.

*conferre signa & Collatis signis pugnare*, to ioine battle. Immediately vpon this they did *Barricum tollere*, make a great shout or noyse with their voices to the greater terrour of their enemies: and that the noyse might be the greater, they did *Arma concutere*, rustle together with their armour, and clash their swords. These foure ceremonies are to be seene more at large in <sup>k</sup> *Lipsius*. Vnto which wee may adde the fift observed by <sup>l</sup> *Fr. Sylvius*; namely that at the removing of their campe, they did *conclamare vasa*, giue a great shout or cry in token that the souldiers should trusse vp their bagge and baggage: and hence it is that <sup>m</sup> *Plautus* vseth this phrase, *Colligatis vasis* to signifie as much as *parate* or *expedite*. Now that they might be the readier for battle, they did gird (as I suppose) their souldiers coates close vnto them: And a souldier thus girt was called *Cinctus*. i. (saith <sup>n</sup> *Pighius*) *Cinctus*. <sup>o</sup> *Inde Discinctos ignavos, & militie minime aptos putarunt; Praecinctos vero fortes & strenuos*. Hence also is that proverbiall speech *In praecinctu stare* or *Vivere*, To be in a readinesse continually.

## CHAP. 2.

*De Legione, Auxilijs, & legionis partibus.*

THE *Romane* forces were in olde time divided into two severall parts; namely in *Legiones & Auxilia*, into Legions and Auxiliarie bands. The Auxiliary bands were such forces as the neighbour and confederate countries did send vnto the *Romanes*. The legions were taken out of the body of the *Romanes*: <sup>p</sup> *Legio, à deligendo dicta est*, from the choice and selecting of souldiers. <sup>q</sup> *Romulus* is said to haue bene the first author of these Legions, making every legion to containe three thousand footmen, and three hundred horsemen; one thousand footmen and one hundred horsemen being taken out of each nationall Tribe. Afterward it was augmented by *Romulus* himselfe into foure thousand footmen, whence it was called *Quadrata legio*. And in proesse of time a legion encreased vnto the

<sup>k</sup> Lib. 4 de milit. Rom. dial. 11. & 12.  
<sup>l</sup> In ep. viror. illust. 1. 4. ep. 1

<sup>m</sup> Plaut in Pseudolo.

<sup>n</sup> Pigh. in sua praf. ad lib. 1. septim.  
<sup>o</sup> Alex. Gen. dier. 1. 1. c. 20.

<sup>p</sup> Plutarc. in Romulo.  
<sup>q</sup> Rosin. Ant. lib. 10. cap. 4

<sup>r</sup> Sig. de iure Rom. 1. 1. c. 15.

<sup>s</sup> Sigon. ib.

the number of six thousand: which number it seldome or never exceeded (as it appeareth by *Sigon*. in the place now quoted.) Now none could bee ordinarily registred for a souldier vntil the seventeenth year of his age, at which his first admission he was tearmed *Tyro*, a freshwater souldier: and hence figuratiuely *Tyrocinium* hath not bene translated only the first entrance into warre, but also the initiation on or first entrance into any art or science whatsoever. After he had served many yeares, then was he tearmed *Veteranus*, an old beaten souldier. The *Romane* legion was divided into *Infedites & equites*, there being commonly for every thousand footmen an hundred horsemen. *Pedites distributi erant in Cohortes; Cohortes in Manipulos; Manipuli in Centurias; Equites distributi erant in Turmas; Turma in Decurias*. The word *Cohors* doth signifie that part of ground, which is commonly enclosed before the gate of an house, & which from the same word we calle a *Court*: and <sup>z</sup> *Varro* giveth this reason of the *Metaphor*. As in a farme house (saith hee) many out buildings ioined together make one inclosure: so *Cohors* consisteth of severall maniples ioined together in one body. It is manifest (saith <sup>a</sup> *Alexander*) that the *Romanes* in ancient time did very seldome, yea never (except in great necessitie) inroll into their vniversall army aboue foure legions: and in an ordinary legion which he tearmeth *Legionē instam ten Cohortes*, every *Cohors* containing 3 maniples, every maniple two *Cēturies*, every *Cētury* an hundred souldiers: whence they from *Centū* were called *Centuria*, a centurie. These centuries were sometimes divided into lesser numbers called *Contubernia*; every *Contubernium* containing tenne souldiers besides their captaine, which was called *Decanus*, and *Caput Contubernij*. Where we must obserue that *Contubernium* doth signifie as well the pavilion or lodging it selfe, as the souldiers lodging therein: and it may be so called *quasi Contaberniū*, frō *Taberna* signifying any slight lodging made of boards. Those that ruled over a thousand footmen we may in English

<sup>t</sup> Alex. Gen. dier. 1. 1. c. 20.  
<sup>u</sup> Pancirol. li. rerum deperdit. cap. de habit. & vest. veter.

<sup>x</sup> Sig. de iure Rom. 1. 1. c. 15

<sup>y</sup> Edmunds in his observ. vpon Cæsars Comment lib. 2. c. 3.  
<sup>z</sup> Varro. lib. 3. de re rustica.  
<sup>a</sup> Alex. Gen. dier. 1. 1.

<sup>b</sup> Varro. vid. Rosin. ant. Rom. 1. 10. c. 5

<sup>c</sup> Rosin. ibid.

glifh cal *Serians maior*. They called them *Tribuni militū*. Those that governed over the centuries were called by the *Centuriones*, by vs in english *Centurions*: and they had their inferiour officers vnder them which were called *Tergiduflores*, or *Extremi agminis ductores*.<sup>d</sup> Their office was to oversee and looke vnto those of the campe which were sick, who commonly came behind the army, *Quasi extremum agmen, et tergum aciei*. The horsemen were divided into severall troopes called *Turma*, every *Turma* containing thirtie horsemen. Againe every *Turma* was subdivided into three lesser companies called *Decuria*, every *Decuria* containing ten horsemen: whence their captaine was called *Decurio*, and the captaines over the greater troopes, namely over the severall wings of the horsemen, were called *Equitum praefecti*. Now the chiefe governour over the universall army was called comonly *Imperator*: we in English call him a *L. Generall*. His Lieutenant or *L. deputie* was called *Legatus*,<sup>e</sup> who in old time was sent *non tam ad imperandum, quam ad consulendum imperatori*. This word *Imperator* in the *Romane histories* hath a threefold acception. First it is taken for him, who by commission from the state hath the managing of an army, being the same that *Prætor* was in ancient time: and in this sense it hath affinity with the office of our *L. Generall*. Secondly for such a *L. Generall*, who by his prowesse having put one thousand of his enemies to the sword, both his souldiers saluted him, & the *Senate* styled him by the name of *Imperator*: But if hee had slaine lesse then one thousand, he was not thought worthy of this solemne salutation by that name. Lastly it was taken for a soveraigne Prince, King, or Monarch, in which sense it was the *Prænomen* of all the *Romane Emperours* from *Julius Caesar* forward. Now because the souldiers in a Legion must of necessitie differ much in estate, age, and experience, some being welthier, elder, and of more experience then others; hence was it requisite also, that there should be a distinction of places in their armies, according to the de-

<sup>d</sup> Veget. vid.  
Rofin. ant.  
Rom. l. 10. c. 7

<sup>e</sup> Lipf. de mil.  
Rom. lib. 2.  
dial. 10.

<sup>f</sup> Barth La-  
tom. in Phil.  
orat. 14.

desert and worth of each severall person. We are therefore likewise to vnderstand, & that the *Consuls* every yeare made a generall muster: at which time the military *Tribunes* chose out the youngest and poorest of all the rest, & called them by the name of *Velites*. Their place in regard of the other souldiers was base and dishonourable, not onely because they fought a farre off and were lightly armed; but also because they were commonly exposed to their enemies as forelorne hopes. According to <sup>h</sup> *Lipfius* these *Velites* did commonly make vp the spaces betweene the *Maniples* of the *Pikemen*; notwithstanding they did like scouts run to & fro, casting out their darts (as occasion was offered) & so retire: whence when a man doth leape from one thing to another in his talke, wee say hee doth *Agere velitationem*. Having chosen out a competent number of these scouts, they proceeded to the choise of the, which they called *Hastati*, i. Pike-men: forasmuch as they fought with a kinde of iaveling, which the *Romanes* called *Hasta*. These Pike-men fought in the first part or fore front of the maine army. The third choise which they made, was of the strongest & highest bodied men, who for the prime of their age were called *Principes*: and hence was the second place or warde in the maine army called *Principia*, according to <sup>i</sup> *Thraso* his speech, *Ego erapost principia*, i. I will followe the *Principes*, thereby choosing to himselfe the best, and safest place. The last sort of souldiers, which stood in the third place or reeward, were called *Triarii*. They were of al, the most approved, and the very last helpe and refuge; so that if they failed, all was lost: and hence ariseth that forme of speech, *Ad Triarios ventum est*,<sup>k</sup> whereby we signifie that a thing is come to the last push. As I suppose, the weapon, wherwith these *Triarii* fought, was a dart with yron fastened at the end of it, called in Latin *Pilum*. The reasons of this my conjecture are these: first because the first century of these *Triarii* was called *Primum pilum*, and their centurion *Primipilus*, and *Primipilus*, and *Primus centurio*, because he was

<sup>g</sup> Lipf. de mil.  
Rom. l. 1. dial.

<sup>3.</sup>

<sup>h</sup> Lip. de mil.  
Rom. lib. 4.  
dial. 3.

<sup>i</sup> Terent. Eu-  
nuch. Act. 4.  
Scen. 7.

<sup>k</sup> Alex. Gen.  
dier. l. 5. c. 15.

<sup>1</sup>Lip. de mil.  
Rom. lib 2.  
dial. 8.

the chiefe Centurion in a whole legion, as having the charge of the chiefe banner called the Eagle; whence *Aquila* is sometimes vsed to signifie *Primopilatum*, the office and place of the *Primopilus*. The second Centurion was called *secundum pilum*, & their Centurion *Secundipilus*, &c. Secondly, they called the *Principes*, which marched in the battle immediatly before these *Triarij*, *Antepilanos*: which argueth that those souldiers, which followed next shoulde be the *Milites Pilani*; and by consequence their weapon should be that kind of dart, which they called *Pilum*. Their maner of embattelling was divers. Sometimes they would make a winged army, so that the maine body thereof should be in the middle, & on each side a lesser company: The maine body we in English call the *Mauntgard*, & the two lesser companies we call *Wings*; as likewise in *Latine* they called them *Alas aciei*, and *dextrum vel sinistrum cornu*.<sup>m</sup> *Pancirollus* calleth them *Vexillationes*, because there fought no more in either wing, then belonged to one banner called in Latin *Vexillum*. The governours of the wings, he calleth *Alarum Praefectos*. Sometimes they embattled so, that the forefront of the Army being smal, it was enlarged bigger and bigger backward in manner of a triangle: By <sup>n</sup>*Lipsius* it is demonstrated vnto vs vnder the forme of the greeke letter Δ. He in the same place calleth it *caput porcinum*, quia velut fodit & ruit invadendo. Commonly it was called *Cuneus militum*, the metaphor being borrowed not only from the resemblance it had with a wedge, but also from the vse of a wedge: for they never embattled in that forme, vnlesse it was to breake through their enemies, the piercing angle being thicke compacted with targets. Sometimes they did in a quite contrary maner enlarge their army in the forefront, making it to end in an angle: & this they called *Forfex* and *Forceps militum*. Sometimes their forme of embattling was circular, and then was it called *Orbis vel globus militum*. The banner or flagge was properly called *Vexillum*, being a diminutiue of *Velum*. It

<sup>m</sup> Pancir in  
norit. orient.  
& occident.  
imper. c. 32.

<sup>n</sup> Lipf. milit.  
Rom. lib 4.  
dial. 7.

<sup>o</sup> Lipf. milit.  
Rom. lib 4.  
dial. 7.

was

was also called *Bandum*: whence we do at this day call so many souldiers, as do fight *sub eodem bando*, a band of souldiers: as *Romulus* called those that fought *sub eodem manipulo feni* (an handfull of hay being vsed at that time instead of a flagge) *Manipulum militum*. *Ovid.*

*Pertica suspensas portabat longa maniplos,  
Unde manipularis nomina miles habet.*

### CHAP. 3.

*De oppugnatione urbis, & ijs qua ad oppugnationem requiruntur.*

**I**F the siege of a towne seemed difficult and hard to compass, then did the *Romanes* vse certaine meanes of policie for the better effecting thereof. They invironed the towne with a broad and deepe ditch, adding therevnto a rampier, fortified with many castles and fortresses, whereby they both kept the towne from any forraigne succour, and withall secured themselves from sallies and other stratagems. This rampier did extend it selfe toward the wals of the city, so that by making (as it were) a great hill, they might overtop the city, and fight with the greater advantage. Now that this great heape of earth might become firme and well able to support the buildings to bee erected vpon it, they did cast in much timber & stones amongst the earth; and this heape of earth, stones, and timber when it was reared, was properly called *Agger*; whence commeth both the Latin verbe *Exaggerare*, and the English to *Exaggerate*. i. to amplifie or encrease a matter. The stakes, posts, & trees, which were ramined in about this bulwarke or rampire to vpholde the earth, were sometimes called *Cerni*, because of their forked and sharpe tops; but more properly *Valli*, and *Valla*. The distance or space betweene each stake was called *Intervallum*; though now *Intervallum* doth signifie not onely such a distance, but any distance either of place or time, as it appeareth by that off *Tully*: *Intervallum locorum, & temporum distincti*. Sometimes *Vallus*

<sup>p</sup> Festus vid.  
Panc. in nor.  
orient. & occident.  
cap 32.

<sup>q</sup> Lipf. polior  
lib 2 dial 2.  
<sup>r</sup> Serv. Aenci.  
lib. 10.

<sup>c</sup> Cic. ep. fam.  
lib. 1. ep. 7.

doth signifie a pole or stake, wherevnto vines are tyed; according to that received adage, which we vse when a speciall friend forsaketh one; *Vallus vitem decepit*. From the first signification it is, that *Vallum* doth often signifie the inclosure, or hedging in of trees and stakes, wherewith the

<sup>e</sup> A Gel. Noc. bulwarke is vpheld: Alluding wherevnto <sup>e</sup> *A. Gellius* translates *Ἐρκος ὀχύρω*, *Vallum dentium*. The meanes of their

defense, whiles they were making this their rampire, was a certaine engine or ordinance of warre <sup>u</sup> made of planks and hurdles, running vpon wheels, vnder which they might rest secure frō all stones and darts cast from the wals of the city: It was called *Vinea*. A second engine was *Musculus*: The matter wherof it was made I haue not read: but the vse of it was, that vnder it the souldiers might approach vnto the wals of the city, and vndermine them. Thus much

<sup>a</sup> Lipl. polior. <sup>x</sup> *Lipsius* seemeth to inferre, when he rendreth the reason of the name: *Musculus idē dīctus, quia instar eius animalculi foderent sub eo terram*. A third meanes of their defense was *Militaris testudo*. This word *Testudo* in the art Military had a double acception, both being borrowed from the resemblance of the *Tortoise* shell, which is the true & genuine signification of this word. In the first acception *Testudo*,

<sup>y</sup> Rosin. ant. Rom. lib. 10. c. 16 doth signifie a warlike engine or fence made with boards covered over with raw hides, which served against fire and stones cast at the souldiers: vnder this they might

<sup>z</sup> Stad. in Flor. 14. c. 10 safely assaile the wals. <sup>z</sup> In the second acceptiō it signifieth a target-fence, which was a close holding together of targets over head like a vault or rooffe, wherewith the footemen did defend themselves from the thicke shot of arrows or slinging of stones. Their rampier or countermure being finished, they vsed certaine great timber towers made vpon wheels to run to and fro, which they called *Turres ambulatoria*, moueable turrets. These towers had many stories one over the other, <sup>a</sup> wherein they carryed ladders &

<sup>a</sup> Rosin. ant. Rom lib. 10. cap 16. casting bridges thereby to scale the wals. The engines hither vnto haue been defensiuē, such wherewith the *Romane*,  
de.

defended themselves in their siege: others there were offensive, wherewith they did assaile the city; and of those the chiefe were *Balista* sive *Catapulta*, *Scorpius* sive *Onager*, *Aries*, & *Malleoli*. The first of these engines, as it was called *Balista* ἀνὰ τὸ ἐκείνου, from darting or casting forth any thing, <sup>b</sup> so was it in old time called *Catapulta* ἀπὸ τοῦ πέλματος, which signifieth a shaft or dart. The forme thereof followeth, translated word for word out of <sup>c</sup> *Marcellinus*. [Betweene two planks there is set in frame, and fast ioyned a strong & bigge yron, reaching out in length after the manner of a good great rule; out of the round body whereof, which is artificially wrought, there lyeth forth farther out a fowre square beame, made hollow with a direct passage in manner of a narrow trough, tyed fast with many cords of sinewes twisted one within the other, and therevnto are ioined two wooden skrewes; neere vnto one of which standeth the cunning Balistier, & subtilly putteth into the hollow passage of the beame a wooden shaft with a bigge head glewed fast to it. This done on both sides, two lustie young men doe bend the engine by turning about certaine wheels. When the top of the head is drawne to the vttermost end of the cords, the shaft being carried forth of the *Balista*, by the inward force thereof, it flyeth out of sight.] That the reader may receaue the more light in the vnderstanding of this obscure description, I haue added the very words of *Marcellinus*. [*Ferrum inter axiculos duos firmum compaginatur & vastum in modum regula maioris extentū: cuius ex volumine teretis, quod in medio ars polita componit, quadratus eminet stylus extensus recto canalis angustis meatu cavatus, & hac multiplici corda nervorum tortiliū illigatus: eiq; cochlea dua lignea coniunguntur aptissime, quarum propē vnā adstistit artifex contemplabilis, & subtiliter adponit in temonis cavamine sagittam ligneam spiculo maiore conglutinatam: hoc q; facto hinc inde validi iuvenes versant agiler rotabilem flexum. Quum ad extremitatem nervorum acumen venerit summum, percita interno pulsū à balista ex oculis e-*

<sup>b</sup> Lipl. Poli-  
orc. lib. 3.  
dial 2.

<sup>c</sup> Am. Marc.  
lib. 23. cap. 3.



*volat.* In respect of its vse we may english it a *Crossebowe*: but it was much bigger, and of a different forme. The *Scorpion*, which now they call *Onager*, is described by *Marcellinus* in the same place thus. [Two oaken or elme beames are hewen out, and somewhat bended, so that they seeme to bunch out in backs; and these in maner of a saw engine are tied fast together, being bored through with wide holes, through (which by the meanes of those holes) strong cords are tied, keeping in the whole frame, that it start not asunder: From betwene theie bunches, another wooden beame reaching forth overthwart, and in maner of a waine beame erected vp, is tied with such devises vnto certaine ropes, that it may be pulled vp higher, or let downe lower at ones pleasure; and at the top thereof certaine yron hooks are fastned, from which hookes there hangeth down a certtain sling either of iron or tow: Vnder which erected beam there lyeth a great peece of haire-cloath full of small chaffe tied fast with cords, and placed vpon a bancke of turfes, or a heape of bricks: When therefore it commeth to the point of skirmish, a round stone being put into the sling, foure young men on one side loosing the beames, into which the ropes are incorporated, doe drawe backe the erected beam vnto the hooke. Thus at length the master of the engine standing in some high place, giving a mightie stroke with a hammer (and, as I suppose, vpon the cord, wherevnto the erected beame was fastned, with his hooke) setteth op the rayles, that containe the whole worke, insomuch that this erected beam being now at liberty with that quick stroke, and hitting against the soft haire-cloath, it hurleth out the stone, that will batter whatsoever is in the way. And it is called *Tormentum*, quod ex eo omnis explicatio torquebatur. It is also called *Scorpio*, because when the long beame or tillar is erected, it hath a sharpe top in maner of a sting. The moderne time hath imposed vnto it the name of *Onager*. i. a wild Ass; because that wild Asses, when they are coursed by hunters, sling backe stones with their heeles a farre off, so

\* *Machina Serratoria.*

\* Ab hac medietate testium] Here we must note that this significatio of testes is borrowed from the Anatomists, which doe call certaine eminent parts behind Testes. Vid. Fuchf. in flit. med. l. 1. sec. 5

so that often times they pierce the breasts of those that follow them.] The Latine word is made from the Greeke ὄρος .i. *Asinus* & Ἀγρὸς, *rus vel ager*. Now if any aske me, why that sackcloath of ashes was interposed, the reason is rendered by *Marcellinus* in two lines, which I purposely did not translate in their place, because I would continue the sense, without such a long parenthesis. The reason is there delivered thus; because the violence and force of the erected beame recoiling, after it had bene by the stroke discharged, was such, that it would shake in peeces the strongest wals, except there were some soft thing interposed, whereby the forceable strength of the recoile might bee by degrees slacked. The *Aries* or Ram is described also by *Marcellin.* in the same place. [The Ram was a great tree, or beame like vnto a mast of a ship, having a peece of iron in maner of a Rams head, fastned at the end thereof, where-with they did demolish and batter downe the wals of a city. It was hung vnto a beam, which lay a crosse over a couple of pillars, and hanged thus equally ballanced, it was by force of men pulled backward, and then recoiled vpon the wals.] In lieu of these *Rammes* another engine was found out, called *Helepolis*, *ab inuolato* Ἑλω. i. *capio*, & πόλις. i. *ciuitas*. The forme of it is to bee seene also in *Marcell. ibid.* [There was (saith hee) a *Testudo*, or vaulted frame made, strengthened with very long peeces of timber: it was covered over with oxen hides, and greene wicker hurdles: the vpper part or conuexe sur-face thereof was overlaid with mud, to the end that it might keepe off the fall of fire and casting of weapons. Now there were fastned in the front of it certaine *Cuspides trifurcae*. i. iron pikes with three edges very massy, in maner of the thunderbolts, which painters and poets exhibite vnto vs. This great engine the souldiers ruling within with diuers wheelles & ropes, with maine force they thrust it against the wals.] [ *Malleoli* (saith the same *Marcellinus*) were certaine darts fashioned on this maner; there was an arrow made of a cane, betwixt the head & the nock



nocke whereof was fastned an iron full of clefts; which arrow like vnto a womans distaffe, on which linnen is spinned, was finely made hollow within the belly, yet open in many places. In the belly it receaved fire with fuell to feed vpō. And thus being gently discharged out of a weak bow (for with an over strong shooting the fire was extinguished) if it tooke fast hold on any place, it burned the same, & water being cast thereon, the fire increased: neither was there any meanes to quench it, but by casting dust on it. Now if they could not prevaile by these engines called *Machina*, then did they make certain passages vnder ground which they called *Cuniculi* from *Cuniculus* signifying a conny-berry: insomuch that these two phrases are opposite, *Machinis*, & *Cuniculis oppugnare*, as it appeareth by that of *Plutarch*: *Caesar non iam cuniculis, sed machinis tollit rempublicam*. i. He doth not now covertly, but with open violence assault the common weale.

<sup>a</sup> Plutarch. in  
vit. C. Cæs.

#### CHAP. 4.

##### *De penis in hostes devictos.*

**A**lbeit after the victory the *Romanes* inflicted divers degrees of punishment, according to the malice found in an enimie; yet were they alwaies compassionate, and (as histories testifie) more exorable then any other nation. The punishments which we find them to haue vsed toward a conquered nation are these. Either they punished them by death; or sold them *sub coronâ*; or dismissed them *sub iugum*; or merced them in taking away their territories; or made them tributarie states. <sup>c</sup> An enimie was said to be sold *sub coronâ*, when he being placed in the market place, a crowne was put vpon his head in token of such a sale: or therefore certaine captiues were said to be sold *sub coronâ*, because at such times they were invironed about with souldiers to keepe them together, and this circle of souldiers, as likewise of all other companies, is called *Corona*. When they dismissed any *sub iugum*,<sup>f</sup> they erected two

<sup>e</sup> A. Gell. lib.  
7. cap. 4.

<sup>f</sup> Stad. in Flor.  
lib. 1. c. 12.

speares

speares with a third lying a crosse in maner of a gallows: then they caused them being disarmed, and their belt takē away to passe vnder in token of bondage. When their territories were taken from them, they were commonly conferred vpon old beaten souldiers; in way of remuneration for their faithfull service. This transplantation was termed *Colonia deductio*; and the place ever after *Romana Colonia*. i. a *Romane Colonie*. At which times they chose out every tenth man, *viz.* such as were able and of best sufficiencie to make and establish a publike councill, & whom they named *Decuriones*. Whence wee may obserue, that *Decurio* is not alwaies taken for a captaine over ten horsemen, but sometimes it is vsed to signifie an *Alberman*, or chiefe Burgesse in a *Romane Colonie*. Diverstimes the *Romanes* would bee content after the conquest to grant to their enimies a peaceable enioying of their lands and possessions, conditionally; that they would yeelde all faithfull allegiaunce vnto that L. Deputy, whosoever the *Senate of Rome* should place over them. The L. Deputy was either styled by the name of a *Proprator*, a *Proconsul*, or a *Præfectus*. Those places, where the two first sorts of governours did rule, were termed *Provincia*; the other from the governour was termed *Præfectura*. Where wee must obserue that this word *Provincia* hath a threefold acception. First it is taken for a country, which by the force & power of armes is subdued to the *Romane* empire, and governed by some *Romane* Deputy sent from the *Senate*; and this is the proper and primitive signification thereof, it being so called, <sup>h</sup> *Quod populus Rom. camprovicit*. i. ante vicis. Secondly it is taken for any region or country, where the L. Generall or chiefe captain over a *Romane* army doth manage warre against any nation by commission from the *Senate*. Lastly it signifieth any publike function or administration of office, yea any private dutie, charge, or taske either vnder taken, or imposed; according to that of *Terence*, *Provinciam cepisti duram*. i. thou hast vnder taken an hard taske. Now the tribute to

<sup>g</sup> Sig. de iure  
Ital. l. 2. c. 4.

<sup>h</sup> Pigh. lib.  
Tyrannif.

<sup>i</sup> Terent. in  
Phor.

A a

be

be paid was either certaine, or vncertaine. The certaine was properly called *Tributum vel Stipendium*; and those who paid it were tearmed *Tributary seu Stipendiary*: and this tribute was of two sorts, either ordinarie, such as was required from every house yearly, even in the time of peace; or extraordinary, such as was levied by a law or decree of the *Senate* towards v unexpected charges. The vncertaine tribute<sup>k</sup> properly called *Vectigal*, was<sup>l</sup> either impost-mony, such as was collected in haven townes for the transportation of marchants wares, and that was called from *Portu* *Portorium*, or from *Porta* *Portarium*, and the receavers thereof *Portitores*: or Tithe corne, namely the tenth part of their graine, and that was called from *Decem Decuma*, and the receauers thereof *Decumani*; though *Decumani* when it is an adiectiue signifieth as much as *Maximus*, according to that of *Ouid. lib. 1. de Trist.*

*Qui venit hic fluctus fluctus supereminet omnes;  
Posterior nono est, undecimoq; prior.*

<sup>m</sup> Fr. Sylv. in viror. illust. ep. 2. lib. 1. The reason of this signification is<sup>n</sup> supposed to be, because in *Arithmetike* amongst simple numbers the tenth is the greatest: or lastly that mony, which was paid by certaine hearde-men for pasturing their cattle in the *Romane* fields and forrests. This kinde of tribute was called *Scriptura*, and the pastures *Agri Scripturarij*; because (as<sup>n</sup> *Festus* saith) the bayliffe or receaver of this mony, called *Pecnarius*, did *Scribendo conscribere rationes*. i. keep his account by writing. Where we must note, first that all these kindes of Tributes were not only required in Provinces or Countries subdued, but throughout *Italy*, even in *Rome* it selfe. Secondly though each collectour of these Tributes was distinguished by a peculiar name, yet by a generall name they were all called<sup>o</sup> *Publicani*, in as much as they did take to rent these publike tributes. The chiefe of them, which entred into bond, as the principall takers or farmers of these tributes *Tully* calleth *Mancipes*. The others which were entered in to the same bond as sureties, were tearmed *Prædes*. Many times

times the *Romanes* did bestow the freedome of their citie vpon forraigne countries; & the degrees of freedome was proportioned accordingly as the countries were. Some they honoured with the name of *Romane* citizens, but excluded them from the right of suffraging, leaving them also to be governed by their owne lawes and magistrates. This state they called a *Municipal* state, in Latine *Municipium*, because they were *Muneris huius honorarij participes*.<sup>p</sup> By<sup>p</sup> *Munus honorarium* in this place is vnderstood nothing<sup>p</sup> *By* *Stig. l. 2. de iure Ital. c. 7.* but the bare title of a *Romane* citizen, whereby they were privileged to fight in a legion as free denisons, not in an auxiliary band as the associates. Now the first that ever obtained this Municipall state, were the *Cerites*, who for preserving the holy things of *Rome* in the time of the warre against the *Gaules*, were rewarded with the freedome of the citie, but without power of suffraging; From whence it is, that those tables, wherein the *Censors* inrolled such as were by them deprived of their voices, were called *Cerites tabula*; *Horace* calleth such a table *Ceritem ceram*, for the reason shewne before. But wee must withall obserue, that some Municipall townes haue either by desert or instant suit obtained the libertie of suffraging also, which occasioneth that receaued distinction, that there was *Municipiū sine suffragio*, and *Municipium cum suffragio*. Other countries which could not bee admitted into the freedome of the citie, haue obtained, and that not without speciall and deserved respects to be Associates and confederats vnto the state of *Rome*. The inhabitants of such countries were sometimes called *Socij*, sometimes *Amici*, sometimes *Latini nominis socij*, &c. The King or Prince of such a countrie did stile himselfe *Amicus & socius Senat. & Pop. Rom.* Here we must obserue a difference betweene *Pactio* and *Fœdus*, both signifying a kind of league. That truce which in time of warre is concluded vpon, and accepted of both sides for a certaine & limited space of time, is properly called *Pactio*; <sup>q</sup> *Stig. de iure Ital. l. 1. cap. 1.* we commonly call it *Inducia*; and it differed from *Fœdus*: first

† Sigon. ibid. first, because that *Fœdus* is a perpetuall truce or league; Secondly because it was necessary, that one of those *De-rals* at armes called *Fœciales*, should by a solemne proclamation confirme this league called *Fœdus*; neither of which conditions was absolutely requisite in their truce tearmed *Pactia*.

## CHAP. 5.

*Multa militares, quibus milites Romani ob delicta afficiebantur.*

**T**ouching the punishments that the *Romane* L. General vsed towards his owne souldiers when they were faulty, they were commonly proportioned vnto the fault committed. Sometimes they were easie, of which sort were al those punishments which did only brand the souldiers with disgrace; other times they were heavier, such as did hurt & afflict the body. To the first sort belonged these; First *Ignominiosa dimissio*. i. a shameful discarding of a souldier, when he is with disgrace removed from the army. Secondly, *Fraudatio stipendij*. i. a stopping of their pay: & such souldiers which suffred this kinde of mulct were said to be *are diruti*, because *Es illud diruebatur in fiscu, non in militis sacculum*. Thirdly, *Censio hastaria*, whereby the souldier was inioined to resigne and giue vp his speare: for as those which had atchieved any noble act, were for their greater honour *Hasta pura donati*. So others for their greater disgrace were enforced to resigne vp their speare. Fourthly, the whole *Cohors*, which had lost their banners, were compelled to eat nothing but barley bread, being deprived of their allowance in wheat; and every Centurion in that *Cohors* had his souldiers belt or girdle taken from him, which was no lesse disgrace amongst them, then it is now amongst vs, that a knight of our order of the Garter, should be deprived of his Garter. Fifthly, for petty faults they made them to stand barefooted before the L. General his pavillion, with long poles of ten foute length in their hands

† Roſin. an-  
tiq. l. 10. c. 25.

hands: and sometimes in the sight of the other souldiers to walke vp and downe with turfes on their necks. In the last of these they seemed to imitate their city discipline, where by malefactors were inioined to take a certaine beame resembling a forke vpon their shoulders, and so to cary it round about the towne; whence from *Furca*, & *Fero* they were tearmed *Furciferi*: It hath some affinity with our carrying of queanes here in England. In the first wee haue no custome, that doth more symbolize, then the standing in a white sheet in the open view of a congregation. The last of their lesser punishments was the opening of a vaine or letting them blood in one of their armes: which kinde of punishment was vsed toward those alone, which (as they conceived thorow the abundance of their hote blood) were too adventurous and bold. The heavier kinds of punishments were these: first *Virgis vel Fusse cadi*, to be beaten with rods or with staues and cudgils. None were ordinarily beaten with cudgils, but those who had not discharged their office, in the sending about that tablet called *Tessera*, wherein the watchword was written; or that had forsaken their place, where they were appointed to keepe watch; or those who had stolen any thing from out the campe; or borne false witnesse against their fellowes, or abused their bodies by women; or lastly that had beene punished thrise for the same fault: those which were in this manner cudgilled, were often killed in the place; but if they escaped aliue, they were to liue in perpetuall exilement. The ceremony vsed in this kinde of cudgilling was, that the knight Martiall should lightly touch the party to be punished with a club, which being done, all the souldiers did beat him with staues and cudgils; whence we may say of one that deserueth a good cudgelling in \* *Tully* his phrase, *Fustnarium meretur*. If a *Romane* souldier had broken his rancke by going out of order, then *Virgis cadebatur*. i. hee was scourged with rods. Sometimes the knight Martiall vpon iust occasion would cause them to be sold for bondslaves, to be be-headed

† Alex. Gen.  
dier. l. 2. c. 13.

† Trib. milit.

Cic. orat.  
Phil. 3.

headed, to be hanged. All these punishments were personal or particular; there remaineth one which was general, namely when the fault was general, as in their uproars, conspiracies, &c. Upon such occasions the souldiers were called together, and every tenth man upon whom the lot fell was punished with that kinde of cudgilling about spoken of; all the others escaped either without punishment, or with very little. The punishment it selfe was termed *Decimatio legionis*, and the reason of this kinde of punishment, is rendred by *Tully: ut metui vix. ad omnes, poena ad paucos perveniret.*

*7 Cic. pro Cluent.*

## CHAP. 6.

*De donis militaribus ob rem fortiter gestam.*

Concerning the rewards which were bestowed in war, some were by the Senate conferred upon the L. Generall: others were by the L. Generall conferred upon his souldiers. Those honours which the L. Generall received were three. First *Nomen Imperatoris*, of which before. Secondly *supplicatio*, i. a solemn procession continued for many daies together, sometimes more, sometimes fewer: all which daies the *Romane* people did observe as holy daies, offering up daily prayers and sacrifice to the Gods in the behalfe of their L. Generall: The custome being that after some notable victory, the souldiers having saluted their chiefe captaine (whom I call their L. General) by the name of *Imperator*, then would he send letters unto the Senate dight with lawrell, wherein he required both that name to be confirmed, and approved by them, as likewise that they would *Decernere supplicationes*, i. appoint such solemn supplications. Thirdly, they honoured him at his comming home also with a Triumph. *Triumphus vel maior, vel minor erat*, saith *Alexander*. The lesser kinde of triumph

was properly called *Ovatio*,<sup>2</sup> *ab ove*, from a sheepe, which in this time of his triumph was led before him, and afterward sacrificed by him: As also in the greater triumph

<sup>1</sup> Salmuth. in Pancir. l. rerū deperd. cap. de triumph.

(cal-

(called properly *Triumphus*) the L. Generall sacrificed a bull. It differeth from the greater triumph first in the acclamation; for in the lesser triumph the souldiers following did as it were redouble this letter O, and some are of opinion that it was therefore called *Ovatio*. In the greater triumph the souldiers followed crying *Io triumphe, Io triumphe*: an example whereof may be seene in *Horace*, where he describeth the triumph of *Bacchus*, the first autor of this greater triumph; from whose name also divers autors do derive this word *Triumphus*, he being in greece called *Θησέως*, which by a litle change is made *Triumphus*. Secondly they differed, because in the greater triumph, the L. Generall did weare a garment of state, called by some *Trabea*,<sup>c</sup> by others *Triumphalis, Picta vel Aurata vestis*; likewise a garland of lawrell, riding in a chariot, the Senators themselves with the best of the *Romanes* meeting him, his souldiers with their coronets, their chaines, and other rewards following after: But in the lesser triumph the L. Generall did weare a plaine purple gowne without any gold imbroidering, and a garland of myrtle tree commonly going on foot, sometimes permitted to ride on a horse; the gentlemen and commonalty of *Rome* alone without the Senators did meete him. Moreover for a perpetuall memory of this their triumph in some publique place certaine trophies were erected. *Trophæum monumentum dixerunt nunc marmoreum, modo æneum, cum inscriptione & titulis avo perpetuo duraturis.*<sup>f</sup> *Dictum est autem τριούμψος. i. à conversione*, from making the enemies to retire and turne backe. Sometimes there were statues, columnes, and arches built in token of triumph. These arches though commonly they were known by the name of *Arcus triumphales*, yet sometimes they are called *Fornicee*,<sup>g</sup> whence it is that *Tully* calleth *Fabianes triumphall arch Fabianum fornitem*. If it so happened that the *Romane* Generall himselfe personally, did take away any spoiles from the chiefe captaine of the enemies, then did hee hang them up in a temple consecrated to *Iupiter Feretrius*.

<sup>a</sup> Ode. 2. li. 4.

<sup>b</sup> Salmuth. in Pancir. l. rerū deperd. cap. de triumph.

<sup>c</sup> Alex. Gen. lib. 6. cap. 17.

<sup>d</sup> Dion. Halicarn. lib. 5.

<sup>e</sup> Alex. Gen. di. l. i. c. 22.

<sup>f</sup> Serv. Ænei. lib. 10.

<sup>g</sup> Fr. Sylv. in orat. Cic. pro Cn. Plancio.

<sup>h</sup> Alex. Gen. *trium*; who was so called, because as the *Romanes* conceived, without the speciall assistance of *Iupiter*; *Dux ducem ferire non poterat*: these spoiles had the name of *Opima spolia*, i. Royall spoiles. The rewards bestowed vpon the souldiers were diuers: either places of office, as the place of a Centurion, of a *Præfektus*, a *Decurio*, &c. or their pay was increased, the spoiles distributed amongst the, or lastly they received certaine gifts tearmed *Dona militaria*. In ancient times those souldiers which had best deserved, receaved a certaine measure of corne called by them *Adorea*; and hence it is, that *Adorea* is now vsed to signifie such laud & praise, as is due vnto a souldier. But after ages for the better encouraging of the souldiers, haue found out more honourable rewards, of which <sup>k</sup> these were the chiefe; *Armilla*, i. a bracelet for the hand-wrest; *Torquis*, a chaine to weare about their necke; *Phalera*, horsetrappings; *Hasta pura*, i. a speare having no iron at the end of it; (it is sometimes called *Hasta donatica*, and *Hasta graminea*;) Lastly *Corona*, crownes, of which *A. Gell.* obserueth these to haue beene the chiefe: 1. *Corona triumphalis*; which in olde time was made of Laurell, but afterward of gold, & thence was it called *Corona aurea*: it was sent by the *Senate* vnto the L. Generall in honour of his triumph; secondly *Corona obsidionalis*, which was given by the souldiers vnto their Generall, when they were freed from a siege: it was made of grasse growing in that place, where they were besieged, whence it had the name also of *Corona graminea*. Now the reason why they made this crowne of grasse growing in the place where they were besieged, was thereby to yeeld vp their right in that place vnto their captaine: for by that ceremony, as <sup>m</sup> *Pliny* obserueth, they did *Terræ & ipsa altricce humo & humatione etiam cedere*. And hence it is, that in races, and the like masteries, hee that was overcome, did gather some of the grasse of that place, and giue it vnto the conquerour, as a token that hee did acknowledge himselfe conquered. <sup>n</sup> This is the reason of that Adage, *Herbam dare*

<sup>m</sup> Plin. l. 22. cap. 4.

<sup>n</sup> Salmuth. in Pancir. l. rerū deperd. cap. de coronis.

re

re. i. to yeeld the victory. Thirdly *Corona civica*, which was bestowed only vpon him, which had saved a citizens life, though in proesse of time it was also bestowed vpon the L. Generall, if he spared a *Romane* citizen, when hee had power to kill him. It was commonly made of oake; whence it was called *Corona quercea*. Fourthly *Corona Muralis*: hee only was honored with this, which did first scale the wals, & enter first into the enimies citie: & hence this crown was cut vpon the circlet or top like vnto the battlements. Fifthly *Corona Castrensis*: This the L. Generall bestowed on him, which first entred into the enimies tents; it did beare in it the resemblance of a bulwarke, or at least of the mound, wherewith the bulwark was strengthened; which mound was called in Latine *Vallum*, and thence the crowne it selfe was often called *Vallarum corona*. Lastly *Corona navalis*, with which hee was honoured, which first entred into the enimies ship in a battle vpon sea: it was portrayd with many ship-beakes called in latine *Rostra*, whence the crown it selfe was often called *Corona Rostrata*.

<sup>o</sup> Pigh. l. Ty. rannif.

<sup>p</sup> Dion. Halic. lib. 10.

<sup>q</sup> Pigh. lib. ry. rannif.

FINIS.

B b

INDEX



# INDEX RERVM ET VERBORVM MAXIME INSIGNIVM.

<i>A</i>		<i>Ærarium vnde dictum?</i>	10
<b>A.</b> Litera in tabulâ scripta		<i>Ærarium sanctius.</i>	11
quid significet?	98	<i>Ærarium militare.</i>	<i>ib.</i>
<i>A.</i> litera salutaris.	166	<i>Ærarium quomodo differat à fi-</i>	
Abdicere quid?	119	<i>co?</i>	131
Abire flaminio.	47	<i>Ære diruri qui, &amp; quare dicti?</i>	188
Ab ovo ad mala. <i>Prov.</i>	78	<i>Æs signatum.</i>	161
Acca Laurentia quæ, & ei cur sa-		<i>Æs grave.</i>	<i>ib.</i>
era instituta?	39	<i>Æsculapij insula.</i>	13
Actiones redhibitoria quæ?	128	Agere forum quid?	6
Accumbendi ratio apud Roma-		Agere pro Tribunali quid?	134
nos qualis?	76	Agere de plano quid?	<i>ib.</i>
Acerra quid?	91	Agere ad populum.	141
Actus neq; plures, neq; pauciores		Agere cum populo.	<i>ib.</i>
in fabula, quàm quinque esse		Agger.	179
debent.	71	Agonalis mons.	3
Ad agnatos, & Gentiles deducé-		Agonales Salii.	49
duſ est. <i>Prov.</i>	154	Agones qui, & vnde dicti?	60
Ad meridiem.	65	Agraria leges.	150
Ad mediam noctem.	<i>ib.</i>	Agri scripturarii.	186
Ad te tanquam ad aram confugi-		Alæ aciei.	178
mus.	2	Alarum præfectus.	<i>ib.</i>
Ad te tanquã ad Asylum conf. <i>ib.</i>		Alba toga quomodo differebat à	
Addicere quid significet?	119	togâ candidâ.	81
Addicta bona quæ?	120	Albo-galerus.	46
Addicti servi qui?	28. & 120	Albi dies qui?	66
Adijcialis cœna quæ?	56	Altare quid, & vnde dictum?	20
Adorca quid?	192	Altè præcincti pro expeditis di-	
Adscriptus civis quis?	147	cti.	79
Adulterium quid?	85	Amphitheatrum quid?	15
Advocatus fisci.	131	Amphora mellaria.	54
Ædes Saturni.	10	Amphora Italica.	143
Ædiles vnde dicti?	128	Amphora Attica.	<i>ib.</i>
Ædiles Curules qui, & vnde di-		Ampliatio quid?	166
cti?	<i>ib.</i>	Ampliari quid?	<i>ib.</i>
Ædiles plebei qui?	<i>ib.</i>	An auctor esset?	169
Ædiles Cereales qui, & vnde di-		An sponderet?	<i>ib.</i>
cti.	<i>ib.</i>	An satisfaret?	<i>ib.</i>
Æra Corybantia, & vnde dicta?	55	Ancile cœlo delapsum.	49
Ærarij qui?	97	Angues pingue duos i. duos Geni-	

# *Rerum & verborum*

os.	34	ctus?	ib.
Angusticlavia.	83	Augurum collegium	40
Angusticlavij.	ib.	Augures vnde dicti? & eorum nu-	
Anniversariæ feriæ quæ?	66	merus initio, ac deinceps quâ-	
Annonæ præfectus.	129	tus?	41
Annus quasi annulus.	62	Auguratus semel vni datus eidem	
Annus Lunaris.	ib.	vivo nuquam adimi potuit. ib.	
Annus à Romulo institutus.	ib.	Augurandi ceremoniæ	42
Annus Bissextilis.	63	Auguria prospera & adversa quâ	
Annus Iulianus.	64	do dicta?	43
Annus magnus, & vertens.	ib.	Auguria impetrativa.	ib.
Ante-cœnium quid, & vnde di-		Auguria oblativa.	ib.
ctum?	76	Augustus Octavius Cæsar dictus	
Ante-pilani qui?	178		120
Ante-signani qui?	159	Avibus bonis quid?	41
Antiquo quid significet?	98	Avibus malis quid?	ib.
Aperire ludum.	67	Avis sinistra quid significet?	43
Apex quid?	46	Aurea corona	192
Apex pileorum genus.	49	Aurum coronarium quid? & vn-	
Apollinares ludi qui?	73	dè dictum?	148
Aquâ & igni interdicere.	116	Auspices quasi avispices.	40
Ara quid, & vnde dicta?	20	Auspicijs bonis	41
Aræ quare graminæ dictæ?	ib.	Auspicijs malis.	ib.
Archigallus quis, & vnde dictus?		Auspiciari rem quid?	ib.
	54	Auspicium coactum quid? & vnde	
Arcus Triumphalis.	191	dictum?	44
Arena.	16	Auxilia quæ?	174
In Arenam descendere.	ib.	Axare quid?	50
Arietem emisit. <i>Prov.</i>	50		
Aries machinæ genus, & eius de-			
scriptio ex Marcellino.	183		
Armis versis pugnare.	74		
Arvales fratres qui, quot, & vnde			
dicti?	39		
Auspices vnde dicti?	40		
As.	155		
Affiduitas in candidatis.	109		
Asylum.	1		
Atri dies qui?	66		
Attellanæ vnde dictæ?	70		
Auctio quid?	149		
Auctor quis?	ib.		
Aventinus Mons. 4. & vnde di-			

## *B.*

Balista quid? & vnde dicta?	181
A BAND of souldiers cur sic	
dicta?	179
Bandum.	ib.
Barritum tollere	174
Basilica quæ pars templi?	17
Basilicæ Romanæ quæ?	8
Bellare cœstu quid?	68
Bellum quomodo indici solitum?	
	50
Benignitas in candidatis	109
Berecynthia vnde dicta?	54
Bef.	

# *Index.*

Bellis quid?	155	quare dicta?	178
Biclinium vnde dictum?	76	Carceres in circo quid, & vnde?	
Bissextilis annus qui?	63		14
Bissextus dies qui?	64	A Carceribus ad metam.	ib.
Blanditia in candidatis.	108	Castoris templum	9
Bona dea; 53. & quare dicta?	ib.	Castrenses ludi	75
Bustuarij qui?	74. & 94.	Catapulta quid, & vnde?	181
Bustuarij vnde dicti?	74	<i>Katastroph.</i>	70
Bustum quid? & vnde dictum?	93	<i>Katastroph.</i>	ib.
		Catastrophe vitæ humanæ.	ib.
		Cavea quid?	14
		Caudex quid?	100
		Causæ capitales	117
		Celebaris hasta	87
		Celeres qui & vnde?	27. 111
		Celerum Tribunus	111
		Censor, Censoria virga.	115
		Census quid significet?	155
		Census Senatorius	25
		Census Equestris.	ib.
		Centumviri	117
		Centuria quid?	175
		Centuria Prærogativa	161
		Centurio	106. 176
		Ceratæ tabulæ	99
		Cereales ludi	73
		Ceres quomodo effingi solita?	37
		Cereris sacra apud Romanos	
		quo tempore facta?	37
		Cereri sacrificat. <i>Prov.</i>	38
		Cerites, municipales primi.	187
		Cerites tabulæ.	ib.
		Cervi, pars aggeris quare dicti?	
			179
		Cestus	85
		Chorus tam è viris, quàm mulie-	
		ribus constabat	71
		Cinctura laxior	79
		Cinctura astrictior.	ib.
		Cinctus Gabinus.	ib.
		Cincturus	174
		Cimiliarchium quid?	11
		Circumvenire quid significet?	137
		B b 3	
		Cir-	



# Rerum & verborum

Circenses ludi	68	Comitia Pontificia, Consularia,	
Circus Maximus	13	Ædilitia.	97
Circus, quare dicitur fallax?	14	Comitia curiata	97. 103
Cives originarij	27	Comitia centuriata	97. 104
Civitate donatus.	ib.	Comitia tributa	97. 107
Civilis dies quomodo dividitur?	65	Comitialis morbus	102
	65	Comitialis dies	67
Clarigatio quid?	50	Comitialis homo.	ib.
Classicus	105	Comperendinari quid propriè?	
Classici Scriptores.	ib.		165
infra Classem	105	Compitales ludi	68
Classicum canere.	ib.	Conclamare vasa	174
Cientes qui?	23	Conclamarum est	91
Clodius accusat mœchos. Prov.	54	Concubium	65
Coactum auspicium	44	Conditione tua non vtar	89
Codex vnde?	100	Confarreatio	87
Cœna vnde dicta?	76	Congiarium	109
Cœna Adjicialis; Pontificia.	56	Conscripti Patres, quomodo pri-	
Cœnæ caput	78	mum dicti?	23
Cognoscere pronunciare quo-	8	Consul	112
modo diffi?	8	Consularis vir	114
Cohors	175	Consules Honorarij, Ordinarij	115
Coire quid signif?	137		115
Collegij magister	41	Consules non Ordinarij, & suf-	
Colligatio vasis	174	fecti.	ib.
Collina	22	Conticinium	65
Collini Salij	49	Contubernium: Contubernij ca-	
Collis salutaris		put	175
Martialis	3	Convivia Romanorum quàm	
Latiaris		varia?	75
Collis Cispus		Convivarum quantus numerus?	
Oppius	4		77
Septimius		Cornu dextrum vel sinist: aciei.	
Coloniz deductio	185		178
Comœdia vnde? & ejus part.	69	Corona quid?	184
Comœdiæ & Tragœd. differentiæ		Corona quæ prima apud Rom.	
quædam	72		40
Comessatio	76	Corona Triumphalis, aurea, ob-	
Comitium quid, & vnde?	8	sidentialis, graminea	192
locus quis?	104	Corona Civica, quærneæ, mura-	
Comitia, & Comitium quomodo		lis, Castrensis	193
differunt?	8	Corona Vallaris, navalis rostra-	
Comitia calata	96	ta.	193
		sub	

# Index.

sub Coronâ quid?	184	Deorum mater.	54
Corybantes vnde?	55	Depontani.	97
Corybantia æra.	ib.	Devorat sacra haud immolata.	61
Cultrarij.	60	Devovere dijs inferis quid?	23
Cuneus militû quid & quare?	178	Deunx.	156
Cunei in theatris quid?	5	Dialis Flamen.	46
Cuniculis oppugnare.	184	Dianæ mons.	5
Curia per se quid sig.?	4	Dicam scribere.	157
Curia per se aliquando idè quod		Dicam sortiri.	ib.
domus curialis.	40	Dictator.	123
Curia { Hostilia. }		Dies bissextus.	64
{ Pompeia }	4	Dies civilis quomodo divid.	65
{ Julia }		Dies albi & atrii.	ib.
Curiz olim apud Rom. quot?	40	Dies festi, feriati, profesti, interci-	
Curiales Flamines.	ib.	si.	66
Curialis domus.	ib.	Dies fasti, ex parte fasti, & nefasti.	67
Curio Maximus.	40		ib.
Curiones sexaginta.	ib.	Dies comitiales.	ib.
Curionia.	ib.	Diem alicui dicere.	165
Curulis sella.	114	Diffarreatio.	87
Custodes qui?	98	Diffindere diem.	163
Cybelle, vel Cybele.	54	Dij matorum gentium.	30
Cybelleius circulator.	ib.	Dij consentes.	ib.
		Dij & Divi quomodo differunt.	ib.
		Dij animales qui?	31
		Dij patrii. ib. Dij tutelares.	ib.
		Dij communes.	32
		Dijs iratis aliquid facere.	ib.
		Diluculum.	65
		Dimicare quid?	74
		Diminutio capitis, maxima, me-	
		dia, minima.	116
		Diribitores.	98
		Discumbendi ratio.	76
		Discus.	61. 68
		Divortium.	89
		Do, dico, addico.	76
		Dodrans.	155
		Domus Curialis.	40
		Dona militaria.	192
		Donatica hasta.	ib.
		Duella.	156
		Duumviri sacris faciundis.	51
		Edi.	

*Rerum & verborum*

<b>E.</b>		Fana listere.	18
		Farracia.	87
		Fartor.	108
<b>Edictum vnde?</b>	119	Fasces pro magistratu.	111
<b>Edictum perpetuum.</b>	ib.	Fasti dies.	67
<b>Edictum peculiare &amp; novum.</b>	ib.	Fatua ? Bona dea appellata.	53
<b>Edictum peremptorium.</b>	165	Fauna	
<b>Effari templa quid?</b>	18	Fax prima.	65
<b>Elephantini libri qui?</b>	11	Februarius vnde dictus.	36
<b>Eleusina Ceres dicta.</b>	37	Feretrius quartus Iupiter dictus?	
<b>Eloquentiae candidatus.</b>	81		192
<b>Emancipati qui?</b>	153	Feriatum dies.	66
<b>Emancipatio.</b>	ib.	Feriz: privatæ, publicæ, anniver-	
<b>Emancipati desissent esse agna-</b>	ib.	sariz, stativæ, & conceptivæ.	66
<b>ti.</b>	ib.	Feriz Latinæ, Imperativæ, & In-	
<b>Emisic arietem, Prov.</b>	50	dictivæ.	67
<b>Emisic quid?</b>	70	Ferre legem.	103
<b>Epulorum Triumviri.</b>	57	Festi dies.	66
<b>Equestris.</b>	15	Fidei Flamines.	51
<b>Equestris ordo.</b>	24	Fidus idem olim quod fœdus.	ib.
<b>Equitum magister.</b>	123	Figere legem, & refigere.	103
<b>Equus publicus.</b>	24	Figere tabulam.	ib.
<b>Equus militaris.</b>	ib.	Flama.	46
<b>*Equus idem quid Gell. signif.</b>	180	Flamines quot, & vnde dicti?	ib.
<b>Esquilinus mons.</b>	4	Flamen Dialis.	ib.
<b>Esquilina tribus.</b>	22	Flamen Martialis.	ib.
<b>Ex parte fasti dies.</b>	67	Flamen Quirinalis.	ib.
<b>Ex iure manu confectum te voco</b>	168	Flamines maiores, & minores.	ib.
	179	Flamines Curiales.	40 & 47
<b>Exaggero vnde?</b>	179	Flaminio abire.	47
<b>Extispices qui, &amp; vnde dicti?</b>	45	Flaminicæ.	ib.
<b>Extra-muraneus Mars quare di-</b>	48	Flaminii & Flaminiz.	ib.
<b>ctus?</b>	48	Flaminia ædes.	ib.
<b>Extremi agminis ductores.</b>	176	Flammeus.	87
		Flexumines.	111
<b>F.</b>		Florales ludi.	73
		Focus quid, & vnde dictus?	20
<b>Fabiani Luperci.</b>	37	Fœciales.	50
<b>Fabulæ palliatæ, &amp; togatæ.</b>	73	vnde dicti?	51
<b>Fagutalis Iupiter.</b>	5	Fœdus quid?	188
<b>Fagutalis mons.</b>	ib.	Folium Sibyllæ.	52
<b>Familiaris pars in victimis.</b>	45	Folia Sibyllæ colligere.	ib.
<b>Fanum quid, &amp; vnde dictum?</b>	17	Forfex, seu forceps militum.	178
		For.	

*Index.*

Fornices.	191	Gramineæ aræ.	20
Forum quot modis sumitur?	6	Graminea hasta.	192
Forum agere.	ib.	Graminea corona.	ib.
Forum indicere.	ib.	Gymnici ludi.	68
Forum Iulium.	7		
Forum Augusti.	ib.		
Forum transitorium, & cur sic di-			
ctum?	ib.		
Forum Traiani.	ib.	<b>H</b> asta pura.	192
Forum Salustij.	ib.	Hastâ purâ donari.	188
Forum Romanum, quod & forum		Hasta donatica.	192
vetus.	ib.	Hasta Graminea.	ib.
Fori in Circo Max. quid?	13	Hasta Celebaris.	87
Fratres arvales, qui, quot, & vnde		Hasta centumviralis.	117
dicti?	39	Hasta pro venditione.	149
Frumentariæ leges.	150	Hastæ Iudices.	117
Frumentum æstimatum.	151	Hastaria censio.	188
Frumentum decumanum.	ib.	Hastati qui?	177
Frumentum emptum.	152	Hæredes primæ ceræ.	99
Frumentum imperatum.	ib.	Hæredes ex toto asse.	ib.
Funalia vnde?	94	Hæredes in imâ cerâ.	ib.
Funus.	ib.	Hæredes secundi.	ib.
Furcifer vnde?	189	Hæredes Legararii.	ib.
Fuste cædi.	ib.	Hæres fiduciarius, & imaginari-	
Fustuarium meretur.	ib.	us.	154
		Hæres in totum assem institutus,	
		quomodo differat ab Hærede	
		ex toto Asse?	156
		Hæres ex deance.	
		Hæres ex quadrante	ib.
		Hæres ex semunciâ.	
		Hæres sextulâ aspersus	
		Helepolis machinæ genus, quid	
		& vnde?	183
		Hemones aliquando homines di-	
		cti.	31
		Herbam dare.	192, 193
		Herculis sacerdotes.	38
		Histrion vnde dictus?	69
		Homo comitalis.	67
		Homo omnium scenarum.	71
		Homo plurimarum palmarum.	74
		Homo sacer.	127
		Homini mortuo ossa ne legito	93
			C c Hor.

<b>G</b> alli Cybelles sacerdotes	54
Gallica quid?	85
Gallicinium	65
Gemoniæ scalæ ubi?	5
Genialis arbor quæ?	33
Genialis quid sig?	ib.
Genialis lectus.	89
Genius bonus & malus.	32
Genio indulgere.	33
Genium defraudare.	ib.
Genius loci.	34
Globus militum.	178
Gradivus à gradiendo.	48
Græca sacra.	37
Græca sacerdos.	ib.

# Rerum & verborum

Horrea Sempronia.	151	Intercalaris dies.	63
Horti Salustini.	7	Intercisi dies.	66
Hostia vnde dicta?	58	Intendere actionem, litem.	165
Hostiare victimam.	ib.	Intempesta nox.	65
Hostilia Curia.	4	Intervallum quid?	179
Hostilis pars in victimis.	45	Interrex.	123
		Inconuicizum.	43
I.		Intra centesimum lapidem.	121
Iacere in Senatu.	113	Iudices selecti.	136
Ianualij.	50	Iudices quæstionum.	ib.
Idus.	64	Iudices lecti sortitione.	163
Ientaculum vnde dict.	75	Iudices editione, edititij, alter-	ib.
Igni & aqua interdiceret.	116	ni.	ib.
Ignominiosa dimissio.	188	Iudicium decuriz.	158
Ilicet quid signif.	94	Iudicium rejectio.	166
Illotis manibus accedere ad rem.		sub Iugum quid?	179
		Iulia Curia.	4
Illotis pedibus.	ib.	Iulianus annus.	64
Imago idem quod nobilitas.	26	Iuhonij.	50
Immolatio.	60	Iunus, sive Inuus aliquando no-	
Imperativæ feriz.	67	men Panis.	36
Imperator.	130 190	Iurare Iovem lapidem, vel per Io-	
quot signif.	176	vem lapidem.	172
Impetrativa auguria.	43	Iupiter Feretrius.	192
In alicujus sententiam ire.	113	Ius honorarium.	118
Inauspicatè.	41	Ius Papirianum.	134
Incensumarium.	11	Ius & lex quomodo diff.	ib.
Inensus.	155		
Incestus vnde.	85	L.	
Indicere forum quid.	6	Acerna quid?	84
Indicta causa damnari.	137	Lacernatus oppositus rogato	ib.
In diem tertium siue perendinum	165	Læna qualis vestis.	42
Indigites.	30	Lævum in rebus sacris quid?	43
Inferig.	94	Lanx.	61
Ingenui qui.	27	Lapis manalis.	48
In jus vocare.	134	Lapis pro mille pass.	121
In jus vocatio.	165	Lares.	34
Injustis vindicijs & sacramentis		Lare sub parvo.	ib.
alienos fundos petere.	169	Lari sacrificat.	ib.
In litem jurare.	165	Latiaris collis.	3
In præcinctu stare vel vivere.	174	Laticlavij.	83
		Latin	

# Index

Latini nominis socij.	187	Lex Furia.	141
Latinæ feriz.	67	Lex Gabinia.	141 152
Latinus quis.	140	Lex Gellia Cornelia.	140
Laudare defunctū pro rostris.	92	Lex Hircia.	144
Lectus Genialis.	89	Lex Hieronica.	152
Legatio mandata, votiva, libera.		Lex Iudiciaria Cæs.	158
	143	Lex Iulia de Provincijs 147. de	
Legatus quot signif.	133	Iudic. 158. de Maiestate.	161
Leges 12 tabularum.	122 167	Lex Iunia.	159 164
Leges tabellariz.	142	Lex Iunia Licinia de triundino.	
Leges de Ambitu.	161		146
Legio vnde.	174	Lex Licinia.	163
Legio Alaudarum.	159	Lex Licinia Æbutia.	146
Legio Quadrata.	174	Lex Licinia Mutia.	139
Legio Iusta.	175	Lex Livia.	157
Legis promulgatio.	101	Lex Manilia.	142 152
Lemniscus quid.	74	Lex Mancipij	161
Lemniscata palma.	ib.	Lex Memnonia.	160
Lessum.	95	Lex Papia.	139
Lex & lus quomodo differūt.	134	Lex Papiria.	137 142
Lex Accusatoria.	157	Lex Plantia.	158
Lex incerta de Nexu.	160	Lex Pompeia.	ib.
Lex Acilia.	164	Lex Porcia.	139
Lex Acilia Calpurnia.	162	Lex Quadrupli.	116
Lex Ælia.	141	Lex Roscia.	137
Lex Atinia.	156	Lex Rupilia.	157
Lex Aurelia.	158	Lex Sempronia de Civitate.	139
Lex Cæcilia Didia.	145	de Comit. 142. de Provinc.	146
Lex Cælia.	142	Lex Agrar.	150
Lex Cassia.	ib.	Lex Servilia de Civit. 140. de lu-	
Lex Clodia, ad religionem spect.		dic.	157
138. ad comitia spect. 141. de		Lex Socialis.	164
Magistrat. 145. de Intercess.	146	Lex Sylvarum & Carbonis.	140
de Provinciis, 148. de cypro, ib		Lex Terentia Cassia.	151
de frument	151	Lex Tiria.	147
Lex Cornelia, de Municipijs, 140.		Lex Tullia de Senat. 143. de Am-	
de Magistrat. 144. 145. de Pro-		bitu.	162
vincijs, 146. Lex Agraria, 150.		Lex Valeria.	145
de Iudic. 159. de parricidio 167		Lex Varia.	161
Lex Corniata, Centuriata.	103	Lex Vatinia.	148
Lex Domitia.	138	Lex Voconia.	155
Lex Fabia.	162	Libatio.	60
Lex Furia.	155	Libamina prima.	ib.

Liberalij ingenui alij libertini.

M.

Libera toga.	27.	80.	<b>M</b> Achinis oppugnare.	184
Libitina, Libitinarij.	91.		Mactare hostiam.	60
Libitinarius idem quod capula-			Magnus annus.	64
ris.	ib.		Magister Collegij.	41
Libri vnde.	98.		Magister equitum, populi magi-	
Libri-pens vnde.	160.		ster.	123
Lictores qui & vnde.	111.		Magistratum ambire: magistratū	
Linum incidere.	100.		inire.	108
Litare.	61.		Magistratu abire.	ib.
Lite vel causa cadere.	136.		Magistratus quis.	100
Litis contestatio, Litis Redemp-			Magistratus Majores.	ib.
tio, litis æstimatio, quomodo			Magistratus Minores.	ib.
differ.	164.		Magistratus Patricij, plebei.	ib.
Loculi.	94.		Magistratus Quinqueduanus.	123
Lucus vnde dict.	19.		Malleoli, machinæ genus.	183
Luceres.	22.		Mancipatio.	153
Ludus.	67.		Mancipes.	186
Ludum aperire.	ib.		Mancipium, mancipatus.	161
Ludi compitales, circenses, & sce-			Mane.	65
nici.	ib.		quisq; suos patimur Manes.	32
Ludi gymnici.	68.		Manibus illotis accedere ad rē	59
Ludi sacri, funebres, votivi, ludi-			Manibus pedibusq; discedere in	
cri, Megalenses, Cereales.	73.		alicujus sententiam.	113
Ludi Florales, Martiales, Apolli-			Manipuli.	175
nares.	ib.		Manipulus militum.	179
Ludi Castrenses.	75.		Manipularis.	159. 161
Ludus Trojanus.	ib.		Manum conferere.	167
Lugere differt ab elugere.	95.		Manumissionis formula.	27
Lunaris annus.	62.		Mars quomodo effingi solebat.	48
Lupercalium origo, & ceremo-			Marte vario pugnatum est.	ib.
niz.	36.		Marte proprio.	48
Lupercalibus quid immolaretur.			Martiales ludi.	73
	ib.		Martialis collis.	3
Lupa aluit Romulum & Remum			Mater deorum.	54
expositos.	ib.		Mavors.	48
Lupercal vbi.	ib.		Megalenses ludi.	73
Lupercorum licentia quanta.	ib.		Megallesia.	ib.
Luperci Fabiani.	37.		Mel laria amphora.	54
Luperci Quintiliani.	ib.		Mense Romanorum quales.	75
Lustrum.	116.		Merenda, vnde dict.	76
Lustrum condere.	ib.			Me-

N.

Mereri sub hoc vel illo dūce.	172.		<b>N</b> avalis corona.	193
Meridies.	65.		Naulum Charontis.	93
Meta.	14.		Nefastus dies.	67
Miles emeritus.	172.		Nexi, qui.	28
Milites per sacramentum.	173.		Nobilitatis ius.	26
Milites per conjurationem.	ib.		Nomen idem quod debitum.	28
Milites evocati.	172.		Nomina facere, liberare, exigere.	ib.
Milites subitarij.	ib.		Nomenclatio, Nomenclator.	108
Militaria dona.	193.		Nominis delatio.	165
Mimi, qui, & quare planipedes di-			Nonæ.	64
ci.	69.		Nongenti qui.	98
Mimicæ fabulæ.	ib.		Novi qui dicebantur.	25
Minervij.	50.		Nox intempesta.	65
Mirra.	81.		Nox media.	ib.
Mitriaci.	55.		Nuntiatio.	102
Mola.	60.		Nuncupare vota.	74
Monitor.	108.		Nuptiæ.	86
Mons Palatinus vnde dict.	1.		Nuptiæ innuptæ.	88
Mons Capitolinus, Tarpeius, Sa-			Nuptialia dona.	89
turni.	2.			
Mons Quirinalis, Agonalis, Ca-				
ballus, Cælius.	3.			
Mons Querculanus, Esquilinus,				
Aventinus.	4.			
Mons Murcius.	5.			
Mons Dianæ.	ib.			
Mons Remonius, Sacer, Vimina-				
lis, Fagutalis.	5.			
Mons Vaticanus.	6.			
Montorius.	ib.			
More Romano, i. ex animo.	21.			
Morbus Comitialis.	102.			
Morbus Socraticus.	163.			
Moribus deductio.	169.			
Mullei, calceorum genus, vnde.	85.			
Municipium, quid & vnde.	187.			
Munus honorarium.	ib.			
Murcia Venus.	5.			
Murrhata, Murrhina potio.	95.			
Muralis corona.	193.			
Masculus, vnde & quare.	180.			
Mutare vestem, quid signif.	81.			

# *Retum & verborum*

Orchestra.	15	Pessinuntia.	54
Ovile, quis locus in Campo Mar-		Pessinuntius sacerdos.	138
tio.	13	Pista toga.	82
		Pignora cadere, concidere, rape-	
		re, auferre.	113
P.		Pilni milites, qui.	178
Pastio quid.	187	Pilum quid.	177
Palatini Salii.	49	Pistrinum quid, & vnde.	16
Palatia vnde dicta.	1	in Pistrinum te dedam.	ib.
Palatina tribus.	22	Planipides excalceati.	69
Palatinus Mons vnde.	1	Plebei qui.	23
Palla.	84	Plebiscitum.	103. 137
Pallata fabulæ.	73	Poculum boni genij.	33
Palliari pro Græcis dicti.	78	Poculum charitatis.	ib.
Pallium.	78. 84	Pollinctores.	91
Palma, quare victoriæ signum.	74	Pomærium quid.	1
Palma lemniscata.	ib.	Pompeia Curia.	4
Palmarum plurimarum homo.	ib.	Pondus pro toga.	81
Palmaria toga.	82	de Ponte descendendus.	13
Paludamentum.	ib.	Pontes per quos suffragia tuler-	
Pan Lyceus, & ejus forma.	35	unt apud Roman. qui.	13
Papia lex.	139	Pontifices, vnde dicti.	56
Papiria lex.	137	Pontificia cæna.	ib.
Papyrus.	99	Pons sublicius.	ib.
Parricidium quid.	167	Popæ.	58
Parricidij quæstiores.	116	Populares.	26
Pars hostilis & familiaris in vic-		Popularia.	15
timis.	45	Postitores qui.	186
Pater Fiduciarius.	153	Portorium, Portarium, vnde.	ib.
Pater-patratus quis.	50	Postsignani.	159
Patres conscripti quando primû		Postulatio, Postulare aliquem, de	
dicti.	23	hoc vel illo crimine.	165
Patricij qui.	ib.	Potitij cuius sacerdotes dicti.	38
Patroni qui.	ib.	Præcidaneæ hostiæ.	59
Pecuaris quis.	186	Præconi publico subijci.	149
Pecuniarum repetundæ.	163	Prædes.	186
Pecunia ablata, capta, coacta, a-		Præfectus Annonæ.	129
versa.	164	Præfectus Aerarij.	130
Pendere, idem quod solvere.	161	Præfectus Prætorio.	130. 131
Penula.	84	Præfectus urbis.	121
Perduellio: Perduellionis iudici-		Præfectura.	185
um.	142	Præfica.	92
Perones, calceorum genus.	85	Prærogativa Tribus, vel centu-	
		ria	

## *Index.*

ria.	101	Pulla toga.	81
Prærogativum omen.	102	Pullarius.	44
Prætexta toga.	82	Pulpitum.	15
Prætextatæ.	69	Pulvinar, aliquando idem quod	
Prætextatus differt à togato.	82	templum.	18
Prætextata ætas.	ib.	Punctum pro suffragio.	98
Prætores vnde.	113. 117	Pura hasta.	192
Prætor urbanus, seu major.	117	Purpurea toga.	82
Prætor peregrinus, seu minor.	ib.	Puteal Libonis.	9
Prætores Cereales.	ib.		
Prætores fidei Commissarij.	ib.		
Prætores Quæstiores.	118		
Prætorium quot significat.	131		
Prandium.	76		
Pridiè Calendas.	65		
Prima fax.	ib.		
Prima libamina.	60		
Principes inter milites Rom. qui			
	177		
Principia quæ.	ib.		
Privatæ feriæ.	66		
Proconsul.	132		
Profesti dies.	66		
Proletarij.	105		
Prologus quid sit.	71		
Prologus <i>υπολόγιος, ους ουκ υνδ, ατ πο-</i>			
<i>πικρος.</i>	ib.		
Pronunciare, & cognoscere quo-			
modo discrepant.	8		
Promulgatio legis.	101. 103		
Proprætor.	132		
Proquæstor.	ib.		
Proscripti, qui.	144		
<i>επιταται.</i>	70		
Provincia quot sig. & vnde dict.			
	185		
Provincias comparare.	132		
Provincias sortiri.	ib.		
Provinciæ Consulares.	ib.		
Provinciæ Prætoriz.	ib.		
Provinciam cepisti duram.	181		
Publicanus quis.	186		
Publicæ feriæ.	66		

## *Q.*

Q. Vadranus quid.	155
Quadruplatores.	156
Quæstiores Parricidij.	118
Quæstiones perpetuæ.	ib.
Quæstor, vnde.	126
Quæstores ærarij.	ib.
Quæstores Urbani.	ib.
Quæstores rerum capitalium.	ib.
Quæstores provinciales.	133
Querculanus mons.	4
Quercæ corona.	193
Quincunx, quid.	155
Quindecimviri sacris faciundis.	51
Quinqueviri mensarij.	129
Quinqueviri epulonum.	57
Quinctiliani Luperci.	37
Quintilis mensis.	64
Quirinalis mons.	3
Quirinalis Flamen.	46
Quirinales Salij.	49
Quirinus nomen Romuli.	3

## *R.*

R. Eddere.	61
Regina sacrorum.	48
Rem ratam habere.	164
Remonius mons.	5
Renunciatio Matrimonij.	40
Repudium.	89

## *Rés*

# Rerum & verborum

Rēs tuas tibi habeto.	90	Salij, quot, & vnde dicti.	49
Reus voti.	74	Palatini.	49
Rex sacrificulus, & Rex sacro-	47	Collini.	
rum.		Agonales.	
Rhamnenses qui.	22	Quirinales.	
Rhea.	54	Salij quales pileos gestent.	ib.
Rignarius mons.	5	Salutaris Collis.	3
Rogare legem.	103	Salutaris litera quæ.	166
Rogus.	93	Salustini horti.	7
Roma Vrbs septuaginta.	1	Satisfactio quid.	170
Romanæ vrbs nomen incogni-	32	* Saturni ædes, quare ærarium po-	10
tum.		puli.	
Romani civis descriptio.	21	Saturni mons.	2
Romano more, i. ex animo.	ib.	Satyræ.	69
Romulum & Remum expositos	136	Satyræ quale genus carminis.	ib.
lupa aluit.		Scalæ Gemoniæ.	5
Rostra vbi fuerint, & vnde dicta.	9	Scena, in theatro, quid.	15
Rostrata Corona.	193	Scena, in fabulis, quid.	71
Rude donatus.	75	Scenici ludi, quare & quomodo	69
Rudis apud gladiatores quid.	ib.	primum institui.	
Rupes Tarpeia.	122	Tragica.	72
S.	127	Scena Comica.	
Acer homo.		Satyræ.	15
Sacra haud immolata devo-	61	Scena versatilis, vel ductilis.	
rat.		Scena, vnde dict.	14
Sacramentum, quid sig.	170	Scorpio, machine genus.	182
Sacramento & sponsione provo-	118	Scriba.	186
care, rogare, quærere, stipula-		Scribendo cōficere rationes.	
ri.	ib.	Scriptura vestigialis genus quare	ib.
Sacramento contendere, restipu-	ib.	dict.	
lari.		Secespita.	61
Sacrarium, quid.	19	Señores.	149
Sacri ludi qui dicti.	71	Secundum illum litem do.	136
Sacrificia, & ritus sacrificandi.	58	Secundipilus.	178
Sacrilegus, quis & vnde.	93	Sella Curulis.	114
Sacrorum rex.	47	Eburnea.	
Sacrosanctus, quis dictus.	127	Semidei.	30
Sagum, quid.	79	Semissis.	15, 155.
ad Saga ire.	ib.	Semones, quasi semi homines.	31
Saga togæ cedant, idem quod ce-	ib.	Semuncia.	156
dant arma togæ.		Senatus: Senator: Senatus con-	112
Saliares dapes.	50	sultum: Senaculum.	
		Senator Princeps, Senatores Pe-	da-

# Index.

Satij.	ib.	Solea.	87
ad Senatum referre.	ib.	Solis occasus.	67
in Senatu stare.	113	Solistimum tripudium.	44
Senatores minorū gentiū qui 23	162	Sophocleo digna cothurno.	73
Senatusconsultum de Ambitu.		Sordidatus vnde dict.	81
Septem convivium, novē convi-	77	Sortitio Iudicum, subfortitio.	166
rium faciunt.		Spectio.	112
Septemviri Epulonum.	57	Sphinx in Pronao quid signif.	17
Septa, qualis locus in campo	13	Sponsalia.	86
Martio.		Stativæ feriæ.	66
Septicollis Vrbs.	1	Stipendium, quid.	186
Septimius collis.	2	Stipendiarij.	ib.
Septunx.	155	Stipendij fraudatio.	188
Sepulchrum.	94	Strola quid & vnde.	79
Sepultura insepulta.	ib.	Stuprum.	35
Sequestres.	109	Stylus, quot signif.	100
Servi addicti.	120	Stylum invertere.	ib.
Servorum duo genera.	28	Subbasilicani, apud Plautum qui	8
Sestertius.	137	Sublicius pons.	56
Sexagenarij de ponte dei jciendi.	97	Subscriptores.	157
Sextans.	155	Subsellia.	8
Sextilis mensis.	64	Subsignanus.	159
Sextulæ.	156	Suburana.	22
Sibylla, vnde dict.	53	Suffragia legitima conficere.	108
Sibyllæ, quot.	52	Suffragia explere.	ib.
Sibyllina oracula.	51	Suffragiorum puncta non tulit	98
Sibyllæ folium.	52	septem.	
Sibyllæ folia colligere.	ib.	Suoveturalia, solitauralia.	116
Sigma, quid, & quomodo olim fi-	77	Supplicatio.	190
guratum.		Supplicationes decernere.	ib.
Signa conferre, collatis signis	174	Synthesis.	55
pugnare.			
Signatores.	86		
Silatum.	75		
Silicernium quid.	94		
Simpulum, vel simpuvium.	60		
Sinistra avis.	43		
Sinistrum in rebus sacris quid.	ib.		
Sitricines.	92		
Soccus.	73		
Sodalitia.	163		

T	Abellarius.	99
	Tabellæ.	ib.
	Tabernariæ.	69
	Tabulæ ceratæ.	99
	Tabulæ accepti & expensi.	ib.
	Publicæ.	ib.
	Tabulæ Novæ.	
	Auctionariæ.	ib.

D d

Ta-

# Rerum & verborum

Tabulam figure.	103	Triarj.	159, 177
Tabularium, quid & vnde.	111	ad Triarios ventum est.	177
Talassio quid signific.	88	Tribunus Celerum.	111
Tarpeius mons.	2	Tribus <i>juris &amp; mris</i> .	22
Tarpeia rupes.	ib.	Tribus locales quot.	ib.
Tatienſes qui.	22	Tribus Urbanz.	107
Taurilia.	116	Tribus Rusticz.	ib.
Tæda, quid.	88	Tribus iurevocata.	103
Templum.	16	Tribus prærogativa.	101
Templum apud augures certa cæli regio.	42	Tribuni militum.	104
Tergiductores.	176	Tribuni Rutuli, Rufuli.	124
Tessera quid.	189	Tribuni suffecti, Comitiat.	ib.
Testamentum calatis comitiis.	97	Tribuni plebis.	127
	154	Tributum quid; Tributarij.	186
Testamentum in procinctu.	154	Triclinium vnde dictum.	76
Testamentum per emancipatio- nem familiz.	ib.	Triens quid.	155
Testamentum, per 2s & librâ.	155	Triumphus vnde dict.	191
Testamentum per nexum.	ib.	Triumphus quomodo differt ab ovatione.	ib.
Testudo, quot signific.	180	Triumphus major; minor.	190
Testudo militaris.	ib.	Triumphalis arcus.	191
Theatrum quid & vnde.	14	Triumphalis corona.	ib.
Trij, qui & vnde.	57	Triumviri Reip. cõstituendz.	125
Toga, vnde dicta.	78	Triumviri Capitales.	129
Togata mulier, pro impudica.	79	Triumviri Mensarij.	ib.
Togam virilem sumere.	80	Triumviri conquirendi juvenes idoneos ad arma ferenda.	ib.
Toga pura quid.	ib.	Triumviri Coloniz dedacendz.	ib.
Alba.	2	Triumviri monetales.	ib.
Toga Candida.	81	Triumviri valedudinis.	130
Pulla.	ib.	Triumviri Nocturni.	ib.
Toga prætexta, purpurea.	82	Triumviri Epulonum.	57
Toga Picta, Palmata.	ib.	Tripudium.	44
Toga Triumphalis.	83	Tripudium solistimum.	ib.
Togatz fabulz.	73	Troia.	75
Togati pro Romanis dicti.	78	Trojanus ludus.	ib.
Tormentum, quid & vnde.	182	Tunica.	83
Trabea.	114	Tunica pallio propior.	ib.
Auguralis.	3	Laticlavia.	3
Trabea Regia.	83	Tunica Angusticlavia.	83
Consecrata.	ib.	Recta.	ib.
Tragædiæ & Comædiæ differ- tiaz quædam.	72	Turma.	157
		Turres ambulatoriz.	180
		Tu.	

## Index

	Testamentaria.		Victimam hostiare.	ib.
	Legitima.		Victimarii.	60
Tutela	Dativa.	153	Vigilia 1. 2. 3. 4.	65
	Fiduciaria.		Viminalis mons.	5
	Honoraria.		Vimineus Iupiter.	ib.
Tutores Honorarii.		ib.	Vindicias sumunto.	168
Tyro, Tyrocinium.		175	Vindicatio quid.	ib.
			Vindicta liberare.	28
			Vinea quid.	180
			Virgis cædi.	189
			Virgula Cenforia.	115
			Virilis toga.	80
			Visceratio.	95
			Vncia quid.	156
			Vnum pro omnibus.	165
			Vota nuncupare.	74
			Votireus.	ib.
			Voti vel voto damnatus.	ib.
			Votiui ludi.	73
			Vovere ludos vel templa.	74
			Vrna.	94
			Vt me ludos facit.	67
			Vt tu Dominus, ita ego Domina.	88
			Vxor vnde.	ib.
			Vsu.	
			Vxor. Confarreatione	} 87
			Coemptione	
			Z.	
			Zona quid.	84
			Zonam perdere.	ib.
			Zonam solvere.	ib.

**FINIS.**